



## **COMMISSION TO ELIMINATE CHILD ABUSE AND NEGLECT FATALITIES**

### **PHOENIX, ARIZONA PUBLIC MEETING TRANSCRIPT January 12-13, 2015**

**CECANF Commissioners attending in person:** Dr. David Sanders, Chairman, Executive Vice President, Casey Family Programs; Amy Ayoub, Advocate and presentation skills coach; Marilyn Bruguier Zimmerman, Director, National Native Children's Trauma Center; Theresa Covington, Director, National Center for the Review and Prevention of Child Deaths; Hon. Patricia M. Martin, Presiding Judge, Child Protection Division of the Circuit Court of Cook County, Illinois; Michael R. Petit, Advisor to Every Child Matters Education Fund, founder and past president; Dr. Cassie Statuto Bevan, Lecturer, Graduate School of Social Policy and Practice, University of Pennsylvania; Jennifer Rodriguez, Executive Director, Youth Law Center

**CECANF Commissioners on the phone:** Susan N. Dreyfus, President and CEO of the Alliance for Strong Families and Communities; Dr. Wade Horn, Director, Deloitte Consulting and former assistant secretary, Administration for Children and Families; Dr. David Rubin, Professor, Perelman School of Medicine at the University of Pennsylvania and Pediatrician, The Children's Hospital of Philadelphia

**CECANF staff attending in person:** Dr. Rachel Berger, Research Lead; Patricia Brincefield, Communications Director; Hope Cooper, Policy Lead; Joanne Edgar, Writer; Tom Morton, Practice Lead; Amy Templeman, Deputy Director; Karen White, Executive Assistant;

**CECANF staff on the phone:** Jill Rivera Greene, Editor; Elizabeth Oppenheim, Executive Director; Cathleen Palm, Research Assistant

#### **DAY 1: JANUARY 12, 2015**

**Chairman Sanders:** Good morning, we're going to get started. Welcome to the Commission to Eliminate Child Abuse and Neglect Fatalities.

I know we have people on the phone and a handful of people here in the room in Phoenix.

I'm David Sanders, the chair of the Commission, and we have six other commissioners here right now. We have one who will be joining us late. Commissioner Rodriguez is experiencing travel trouble. And we have, I believe, at least three other commissioners joining us on the phone.

So 11 of the 12 will participate in the meetings today and tomorrow. And today and tomorrow we will review the Commission work to date and specifically discuss our understanding of the

issues of defining and counting child abuse and neglect fatalities and provide some recommendations for addressing the concerns.

We'll also -- today we'll also hear from two of the other five commission subcommittees, the Child Protection Subcommittee, which is otherwise known as the children known to the system who end up experiencing a fatality, and our policy subcommittee. And we'll be discussing their draft work plans.

The times on the agenda today -- this is actually for all of us -- are really flexible. So we are not necessarily going to start and end each item on the exact time that's identified in the agenda. There will be some flexibility depending on the interest of the commissioners.

And the meeting today, as well as the meeting tomorrow, is a discussion among the commissioners, and so those in the audience will not have a chance to participate in asking commissioners' questions or making comments.

However, we do encourage anybody with input to provide that through our Commission website.

So we're going to go ahead and get started with our first agenda item, which is -- actually, let me ask each of the commissioners to introduce themselves and then we'll start with our agenda item.

Commissioner Ayoub?

**Commissioner Ayoub:** I'm Amy Ayoub, owner of the Zen Speaker, a public speaking and coaching company, long time child advocate and sex trafficking survivor.

**Commissioner Bevan:** Hi, Cassie Statuto Bevan.

**Commissioner Petit:** I'm Mike Petit, the president of the Every Child Matters Education Fund in Washington, D.C.

**Commissioner Covington:** Good morning, I'm Teri Covington. My day job is that I'm director of the National Center for the Review and Prevention of Child Deaths.

**Chairman Sanders:** David Sanders, the chairman with Casey Family Programs.

**Commissioner Martin:** Patricia Martin, I'm the presiding judge of the Child Protection Division in Cook County.

**Commissioner Zimmerman:** Good morning, I'm Marilyn Bruguier Zimmerman. I'm an enrolled member of the Fort Peck Assiniboine and Sioux Tribes in Montana. I currently serve as director of the National Native Children's Trauma Center at the University of Montana.

**Chairman Sanders:** Thank you. So we will go ahead and get started. And the commissioners who are going to participate by phone also know to text our staff if they want to have any comments and so we will be looking for input from them.

So for this first item, which is a discussion of the recommendations of the subcommittee on measurement, I'm going to ask Hope Cooper to actually facilitate this.

We're going to start with the presentation on the background and recommendations, and Rachel Berger, who has staffed the subcommittee, will also be part of this presentation.

Commissioner Covington?

**Commissioner Covington:** Good morning. So we're going to summarize again some of the materials that we presented in Vermont to you, and in a sense, summarize all of the presenters that we've heard over the last many months related to maltreatment and the measurement of maltreatment.

And one thing throughout the discussion that we sort of wanted to also tie in is the issue of near fatal deaths. It hasn't really been addressed. It's not addressed in our charge, but we heard a lot of recommendations around including the measurement of near fatal maltreatment as well as maltreatment.

So it's sort of an underlying theme, but I'm not going to -- every time I say maltreatment fatalities, I'm not going to say near fatalities. It's just something to keep in mind.

What we're going to do today is present you once again with what the charge of the Commission is related to measurement, what some of the findings that we've obtained throughout all of our presentations in the literature we've searched and the work we've done in the background as our subcommittee, what we think the overarching findings and themes are.

And then we're going to present you overarching recommendations that sort of - really almost in the sense the themes for the more specific recommendations.

And as we go into the overarching recommendations, we're going to want to hear from you as to whether you think we're on the right track.

And then we're going to go into the specific recommendations because they're a little bit more into the weeds.

I think one of the challenges we have, and probably all of you will have with your subcommittees, is how far into the weeds do you get with this work, to the point that I think we actually saw ourselves trying to implement some of the recommendations and doing the recommendations so it gets really tricky.

An example would be defining child maltreatment fatality. We started thinking maybe we should do that and then we realized maybe that's just a recommendation that that gets defined.

I think -- I'm looking at heads shaking. It's like you guys know what I'm talking about. There's a real gray fine line between actually trying to answer some of the questions that we're trying to answer as well as making recommendations to answer those questions.

So we gave you a handout which is called -- it's the Recommendations for Discussion handout, to review, quickly, the background.

In the provisions from the Protect Our Kids Act, the finding was that Congress reported that deaths from child abuse and neglect are significantly underreported and there's not a national standard for reporting such deaths.

And I think we heard that over and over again from multiple presenters.

We also heard that in the Maltreatment 2011, and the new report should be out soon actually, that there are about 1545 children in the United States that were reported through NCANDS to have died from abuse and neglect, but that many experts believe the actual number may be significantly more.

And that Congress, in recent years, they took a step, actually after the GAO report, that required states, through the Child and Family Services Improvement and Innovation Act of 2011, to describe how they will improve the quality of data collected on fatalities from abuse and neglect.

The one thing they required the states to do was to, when they reported into NCANDS, they were supposed to report on what data sources they utilized to get those numbers, and if they didn't utilize multiple data sources, they were supposed to describe in their findings why they didn't or steps that they're taking to start utilizing those.

And you can find those state responses in the appendix of the Child Maltreatment Report from 2012.

The duties of the Commission are that the matters studied by the Commission shall include methods for improving data collection and utilization such as increasing interoperability among state and local data systems and developing guidelines for the type of information that should be tracked to improve interventions to prevent fatalities from abuse and neglect.

That's a little bit further away from our direct recommendations, but we felt developing guidelines from the type of information that should be tracked includes measuring deaths.

Our subcommittee's guiding questions from the work plan we all agreed on was what is the purpose for counting maltreatment fatalities, what is the data that's currently being collected, what are the limitations and cost of our collection efforts, what short and long term strategies could we implement to improve the counting, and does reporting, including the definitions, need to be standardized, and if so, how could the standardization be developed and implemented.

Our findings from all of the testimony that we heard and all the literature we viewed are that, one, the government accounting office issued a report in 2011 that most specifically looked at the NCANDS reporting system, and their recommendations in that included identifying ways to help states strengthen the completeness and reliability of data reported into NCANDS, expand the type of information HHS makes public on the circumstances surrounding child fatalities from maltreatment, use stronger mechanisms to share the analysis

and expertise with HHS partners on the circumstances and maltreatment deaths, and estimate the costs and benefits of collecting national data on near fatalities.

We also went all the way back to 1995, when the -- really the last federal commission related to child maltreatment had met. It was the President's U.S. Advisory Board on Child Abuse and Neglect. And they did a special report. I know all of you have probably looked at it, "The Nation's Shame," that looked specifically at child abuse neglect fatalities.

They had four recommendations that were related to our work. One is that there should be a major enhancement of joint training on the identification and investigation of child abuse and neglect deaths, that all states should enact legislation establishing child autopsy protocols, and federal funding for these autopsies should be available under Medicaid, that all states should have state level child death review teams, and that child death review teams should be established at the local or regional level within the states.

Those are the four recommendations we found within that.

Interestingly enough, there wasn't a recommendation specifically related to counting fatalities.

When we looked at the current purposes of counting, we felt that you count these deaths in order to understand their scope for multiple purposes. And I think that's an important piece as we go through our recommendations, that multiple purpose is important for us because it includes purposes related to criminal justice.

How many kids die from maltreatment, for example, that end up being adjudicated through the criminal justice system and what do those adjudications look like.

How many kids die that are in the child welfare system that were known to the child welfare system or maybe should have been known by the child welfare system, and what kinds of responses did the systems apply in those fatalities before and after maybe as a result of the deaths.

And then the public health approaches, looking at -- this would be a broader number.

As you think about this, it's -- I presented a pyramid in Vermont, that that number kind of gets bigger and bigger as you start thinking about public health fatalities, and you're looking at those primarily to figure out what you can do to support families and communities to try to prevent these deaths.

Another reason for counting is to -- when you have a baseline and you know what your real number of fatalities are, it becomes easier to measure them over time. You have a consistent number over time and then you can actually measure whether or not your interventions worked.

If you do things to try to prevent fatalities or improve systems, then you can truly understand whether you're making a difference or not.

Right now we feel it's really difficult to do that because there's not a lot of faith in the numbers that are generated.

And then the last purpose would be to garner attention and financial support for child maltreatment fatality prevention by understanding what the true number is. We think that number is going to go up and I think it would make people understand that this is a serious public health and child welfare problem.

There are about five systems that currently do something to sort of report child abuse and neglect fatalities. We get some deaths reported through death certificates and vital records but this is where you get the smallest number of cases.

Because there's not -- the coding for a child maltreatment death is not really available on a death certificate. There are certain codes that relate to battering. But to actually put a death in there where you know that the death was due to maltreatment, which would, in most states, mean at the hands of someone under the care and custody of that child. It's difficult to pull that information.

We have the National Child Abuse Neglect Data System, which you guys -- we've heard a lot about, NCANDS, and we've heard about some of the strengths and weaknesses of that system.

Uniform crime reports from law enforcement tend to capture deaths where there's been at least a charge or a conviction, and it's been typically the physical abuse homicides get counted into that.

The National Child Death Case Reporting system is a system run out of HRSA, and that captures cases that have been reviewed by child death review teams at the state and local level, but the standardization across states and local teams varies greatly.

And then there's the National Violent Death Reporting System that we haven't talked a lot about, but that collects data on all violent deaths of all peoples across the country.

But through some self-reports from them we know that they don't do a terrific job capturing a lot of child abuse and neglect because it doesn't get reported to them very well. So those are our current data systems.

Our overarching findings and themes through our subcommittee work and mostly through work that we heard through presentations as well as the literature is that there is currently no uniform classification system or definition of fatal child abuse and neglect that's in widespread use.

There are definitions out there. There are systems out there, but there's nothing that's being used in a standard way across the country. Definitions and classifications vary among agency systems. For example, there is great variation across, and even within states, regarding how maltreatment deaths are defined by death certifiers on death certificates. So those would be medical examiners or coroners.

There's great variation on how CPS verifies these deaths. We heard that in some states they only verify deaths where the child was already known to the child welfare system, whereas in

other states they'll verify any child that comes to their attention where they think they may have died from abuse or neglect.

There's variation among law enforcement and prosecutors for what they want in terms of establishing proof and how they adjudicate these cases in court. We've heard that is a serious frustration where even child welfare may have a case that they take to a prosecutor and the prosecutor chooses not to move those cases forward for prosecution.

And then there's widespread variation by public health in terms of what they use and count for prevention. So ultimately there's just huge variation in the reporting of these deaths in all of the systems.

The current systems do not provide for reliable or valid counts of fatal maltreatment over time or for comparison among states for those very reasons.

We also know that fatal neglect is the most complex and difficult type of maltreatment to identify and quantify. In Vermont we gave you some examples of cases and how they were classified differently depending on the system that looked at them. But they represent the largest percent of fatal maltreatment, approximately 70 percent.

We also know that there's different persons who are determining child abuse and neglect fatalities. So state by state and even within states there's huge variation in the death investigation systems.

Some states have all medical examiners. Some states have all coroners, some states have a mix of coroner and medical examiner systems. And this really inhibits current diagnosis of fatal abuse and neglect fatalities because there's really huge differences in the quality of those systems.

Some would argue that medical examiner systems which by definition are medical professionals, physicians, that those are more robust in terms of classifying abuse and neglect. But some states have coroner systems that require that the coroner be a medical person. It really depends on which state we're looking at.

We also learned that the Department of Defense, starting with the Air Force, developed a system that used -- that they're using to verify and classify maltreatment. Not fatalities, but just maltreatment, which they then validated across multiple sites and found that it reduces subjectivity and has a high reliability, which means regardless of who's using it, they tend to get the same answer.

And that process uses a multidisciplinary team approach and a decision-making matrix to get to an answer of whether an individual case ends up being a maltreatment case or not.

We were really intrigued with this. The Department of Defense expanded this from the Air Force into all of their -- I want to say installation, but that's not -- across all the branches of the military.

We also found that multiple studies that have been published of maltreatment surveillance found that when you use a multidisciplinary team and a reconciliation of records from

multiple sources during the reviews and then you classify these cases, you end up having a more consistent and standardized and an increase in the number of deaths that get counted. And the persons that tend to be at those reviews include child welfare, law enforcement, public health, the medical examiner, coroner, et cetera, and other social services. When those reviews are held, you tend to increase criminal convictions, child protection substantiations, and you do a better job identifying what can be done in terms of prevention.

So tying to that, most of those studies have used child death review teams. And when we looked at child death review teams, since the 1990s, there has been an expansion of child death review teams so that all states now have a comprehensive system. But that varies across the states, too. In many states you have only state level reviews or you have local and state level reviews and there's not a lot of consistency.

We also know that 44 states conduct internal child welfare reviews of their child death reviews -- of their child abuse deaths usually within the child welfare agency. But most of those are not multidisciplinary, multi-agency.

And 43 states are participating in the voluntary national child death case review reporting system where they enter in data on their reviews, comprehensive data into that system, and that's managed out of the HRSA funding.

And we also learned that CAPTA reauthorization requires states to report on the number of deaths in their state during the year resulting from abuse and neglect, and to establish not less than three citizens review panels.

One of those panels can be specific to child fatalities and/or the state is encouraged to do reviews of their child fatalities. We also found that 17 states combine their child death review team as their citizens review panel to specifically review fatalities.

So those were sort of the findings that we found, and as a result of that, we came up with some recommendations, which is our charge.

**Commissioner Martin:** Before you go into your recommendations, I have one question about the findings. And I think I know the answer, but I want to be sure that my answer is what you would -- in terms of native countries, there is no uniform reporting of native deaths currently.

The only place that we get remotely close to that is in the Navajo country that has a death review team, is that true? Do they report or not?

**Commissioner Covington:** No, they're still in their infancy stages there. What you get in Navajo country that's more uniform is that the Navajo Nation contracts with the office of the medical examiner in New Mexico and New Mexico helps them do all the investigations of all of their deaths. So at least those deaths get investigated through a single source.

So there's a little bit more consistency in identifying their child abuse deaths, but there is no national system that helps identify child deaths across Indian nations. In fact, it's really hard to do because death certificates don't have a place to list tribal affiliation. So it's -- a lot of tribes will tell you they don't know the numbers.



**Commissioner Martin:** And then my second question is all the literature and all the testimony we've heard is that every -- most experts would indicate that there's an undercounting done nationwide.

I understand that there are a lot of sources that combine primary sources. So, for instance, a death review team uses death certificates. They do investigations and the like.

Is there anything or do we have any literature to suggest that we don't have a problem with duplicate counting?

So, in other words, if my CPS counts a case and it has a criminal undertone so the FBI is counting it, are we sure that we're not duplicating and counting Pat Martin twice?

**Commissioner Covington:** We are counting Pat Martin twice in those systems.

The states that were funded -- the CVC funded three states to do these, kind of what they call a public health maltreatment project. California, Michigan, and Rhode Island all did reconciliation audits. And I put up a VENN diagram when we were in Vermont, which was really interesting, because what you find is that sometimes the deaths are recorded -- what you want is that death to show up across the board in all those systems, if it's a maltreatment death somewhere or another.

What we found is that sometimes only child welfare would identify the case and other times maybe even law enforcement would only have identified it. We didn't find huge consistency. We wanted that circle to sort of finally come together and it rarely did, but when those states did what they called their reconciliations or their review, their multidisciplinary reviews of the cases, they were able to consolidate those into one big circle.

**Commissioner Martin:** But the states that voluntarily report into NCANDS, they're not required to do a reconciliation, is that correct?

**Commissioner Covington:** No, they're just supposed to show their different reporting systems. I don't think it states specifically that they have to reconcile the number, though. I think they might be trying to but I don't know that they are.

**Commissioner Martin:** But the bottom line is even if there is duplication, we're less concerned with the duplication than we are with the under reporting, because we think that's the majority of the issue?

**Commissioner Covington:** Yes.

**Dr. Berger:** -- the number of 1545 comes from NCANDS, and since NCANDS is based on CPS data, it doesn't reconcile so you wouldn't have a child duplicated because it's actually a single source.

**Commissioner Martin:** But for Illinois, for instance, my child welfare department, we found duplications. Because what happens is a worker will identify the child and then the agency itself will identify the child, too. So we found duplications within our child welfare in Illinois.

And my only question really is -- I mean, obviously, there's going to be some duplication somewhere. But I just want to make certain that my understanding is correct, that whatever duplication we see or whatever we anticipate, that's still going to be minor compared to the undercounting issue.

**Commissioner Covington:** Absolutely.

**Chairman Sanders:** Commissioner Petit?

**Commissioner Petit:** One, is there a definition someplace of what a near death fatality, near fatal incident is?

**Commissioner Covington:** There's a lot of definitions. That's part of the problem. We actually surveyed states through my daily job and asked them how they define child near fatal death and we received about 15 different definitions.

There's an NCANDS definition, though, that's in CAPTA that relates to, I think -- I can't, let's see if we have it in front of us. It typically relates to that the child needed the care of a physician.

But some states require that the state, the child had to be in an intensive care unit, a pediatric intensive care unit before they'll call it a near fatality. Other states will just use whatever a worker described as a near fatality. So the definition really varies across the country.

**Commissioner Petit:** Is there a number that anybody is using at this point? Is it 6,000, 10,000, 2,000, 1,000? Is there anything that can be added up?

**Commissioner Covington:** I've never seen a number.

**Commissioner Petit:** That's one question.

The second is in the review of all of this, have we looked at the University of Rhode Island study that showed the 90,000 deaths over a 30-year period, and how is that useful or not useful to us? Is there anything in there that is of use?

**Commissioner Covington:** We did use it, and actually, Rhode Island is one of the states that were funded by the CDC for the maltreatment surveillance project.

They're such a unique state because everything comes into what they -- they have one hospital, they have one child welfare agency. So it made some sense there.

**Commissioner Petit:** But I'm not talking about Rhode Island as a state, but as the university with three researchers put together, that review of 90,000 deaths going back 30 years. I'm talking about that. Have we looked at that?

**Commissioner Covington:** We looked at it. I don't know that we've done anything specifically with it.

**Commissioner Petit:** I think that they examined the causes of death, who committed the offense, et cetera, against the child, 30,000 -- I mean, 90,000 kids over a 30-year period. Rachel, are you familiar with that study?

**Chairman Sanders:** We did review that.

**Commissioner Petit:** What did we conclude? Is there anything in there that we didn't know about or is there anything in there that adds to the weight of what it is that we have found? I mean, I've read the summary months ago when it first came out, but is it something that we're drawing upon in any way? Should we be, or not?

**Chairman Sanders:** I think the answer to that is yes, but a couple of things. One, I think the magnitude is much bigger than people had expected and I think that's one of the things, as we look at the issue of counting, suggests that the undercount and the seriousness of this has probably been underestimated for a number of years. And I think that study confirms it.

I think the other, though, we did -- I believe one of the staff actually talked to one of the authors, and so we should find out and get something written out on that.

**Commissioner Petit:** Just to take that a step further.

Was the question that Commissioner Martin raised about the, what I think the research is called, under ascertainment, there were three such sources of peer-reviewed articles that we drew upon at Every Child Matters in writing a report on child abuse deaths in America - - three peer-reviewed journals.

So it wasn't a couple social workers putting it together. These were long-term cites. In each case what they basically concluded is that the under ascertainment is at least 50 percent or more. So we have been using as a number, at Every Child Matters and the coalition that was organized, that there are upwards of 2500 deaths, upwards of 2500.

That is, if you look at the official count, 1500, 1600, and you said 15 percent of that, that gets you into the 2500 range. But in fact, in reading the reports, it looks to me like it could be closer to 3000 or even 4000, depending on how you define it.

So I'm hoping, and tell me if I'm right or wrong on this thing, that when we issue a report, we are going to use a range or something, but that we're not going to be saying there's 1500 child abuse fatalities. It's a significantly higher number than that.

So are we getting closer to what that number is going to look like and how we are going to arrive at something?

**Commissioner Covington:** I don't think -- that's sort of the piece about getting into the weeds that I was talking about earlier. I don't think we're in a place right now to say what the actual count is because we don't have a consistent system across the states.

If you look at the states, when we heard from them, we heard from Michigan specifically, we heard from California. They more than triple their numbers. They quadruple.

Sometimes California does even more than that from their original number reported through their child welfare reports.

And after they do these multidisciplinary reviews, reconciliation of records, they end up with over a hundred, they end up with four to five to six times higher.

**Commissioner Petit:** But it seems to me that one of our charges is coming up with what we think is a range even. So whether it's 1500 or 3000, there ought to be some discussion of that.

And I noted last week, when the press was covering the fact that we are now stepping outside of Afghanistan, it was noted that over that period, there were 2000 deaths of American military personnel, which is a bad thing, but during the same period there were a minimum of 20,000, 25,000, 30,000 American children killed at home. So those numbers mean something.

**Chairman Sanders:** Commissioner Petit, I would suggest we're going to switch into the discussion of the recommendations and that I think from hearing the recommendations we can assess whether we're getting closer to that number or not.

And if not, we should add that as one of the recommendations.

**Commissioner Martin:** I'll wait -- on that same issue, as much as I agree with Mike that that number is important, I'm not sure why that number is important for this report, though.

And so maybe we can hold that discussion off as you indicated, David, until after we go through the recommendations that are already going to be offered.

I mean, I agree that that number is vitally important and that all of us should have some sense of what that number is. Our nation should have some sense of what that number is, but I'm not sure I really understand the importance of that number being put in our report. But again, I'll wait until after we discuss the recommendations.

**Chairman Sanders:** So I'm going to just provide some context. I sent this out or somebody sent this out this morning in an email. That just helps to provide some framing for the discussion.

So our goal today is really for the Commission to provide, the full Commission to provide input and direction for the measurement subcommittee with the primary goal being consensus on some or all of the overarching recommendations, and to the extent possible, also if we can achieve consensus on the specific recommendations, that would be great.

And really defining consensus is that we all leave with a sense of, "I can live with that for now."

The majority of commissioners would approve, at least generally approve, of the direction and most or all others agree to go along.

But the discussion today is not a vote, it's not intended to be binding in any way, but to give us direction on are we headed in the right direction with what we're considering or not? And I think this last issue is one of those that hopefully there will be some discussion about it.

But we think that the measurement recommendations really begin to outline our position on the scope of the problem and help to define much of what we'll be talking about in all of the other subcommittees.

So as we review the seven overarching recommendations, we have considered at least four likely responses and they are up on the board.

One is that a commissioner could say, "I completely disagree with the recommendation and am unlikely to agree under any circumstance." And I think then, as a subcommittee, we would have to go back and consider where we want to end up on a recommendation like that, if there's that vehement opposition.

The second is, "I'm fully supportive of the statement. Let's really understand the detail behind it."

Third is, "I need to discuss the detail to determine whether I agree," and then fourth may be, "I have additional recommendations that you haven't included."

And so hopefully we can get some specific ideas about where we want to go with the overarching recommendations.

So we'll -- and I think I really -- Commissioner Horn mentioned this in a recent call, but that ultimately we're not just looking at a set of recommendations but really a cohesive, comprehensive report that both tells the story and ultimately results in fewer children dying as a result of abuse or neglect, and that we will need to consider the full set of recommendations at some point.

But this is really to say you're either on track or you're not on track and wanting to have enough of a discussion for that.

So let me shift -

**Commissioner Bevan:** Before we do that, are we going to discuss the GAO report and stuff that's already out there that already exists?

**Chairman Sanders:** Yeah, we actually have done -- at the last presentation in Vermont there was a recommendation that we follow up with the actions taken from the GAO report and we do have that.

So yes, we'll make sure that -- actually after we go through the re

**Commissioner Bevan:** I'm talking about what's in the summary of the report. I mean, there are things that were sent out that did not capture everything within the GAO report. So we can't limit ourselves to just the progress made in the GAO report because it's not all there.

You're limiting it to whatever questions that -- and you have to forgive me, I was in the hospital last night so I'm not really making total sense. But to the extent that I don't want to give up on this altogether and just go home, I'm going to try really hard to make just a couple

of points. And I know that you sent us progress on the GAO report, but it wasn't progress on everything that was (inaudible) mentioned, like in the summaries. So I'm just concerned. I mean, I want to -- when you go over it, just --

**Chairman Sanders:** Yes, we'll make sure that that's part of it.

So a couple of things just in introducing the recommendations, and Teri has covered the congressional charge as well as the finding and we've had a lot of discussion about the finding of the undercount.

A couple of things that we think make it important for us to begin to talk about this and define this to the extent possible, one is that states are struggling with counting, and we get the clips regularly from Tom and see the concerns from states that they are unable to count within states, as well as certainly unable to compare to other states.

And so we think to the extent that we can provide any guidance, that's going to be important.

And the other is that we think that this defining, and just the last conversation I think helps to provide an example that the finding is going to be critical to really all of our recommendations. And so to the extent that we believe near fatalities need to be counted, that impacts our other recommendations to the extent that we believe that there's a strong federal rule that does so.

So we think that this is an issue that having guidance on as soon as possible is going to be important.

So let me shift to the overarching recommendations. And you can probably see by the balance. We've identified five as primarily a federal role and two as a state role.

And I think that reflects our thinking about the importance for the federal government to take this as a priority issue, and I think we've heard from Commissioner Petit several times about the accident of geography. And so I want to make sure that this is looked at as a national issue.

So our first recommendation is to consolidate oversight and leadership at the federal level on this issue, and we've heard, and it's included in the background, the multiple agencies and mechanisms for counting, and we think that it will be important for that to rest someplace within the federal government. And one of the questions is about the resources that are used across multiple agencies and multiple departments to accomplish the same thing.

Are there ways to make this both more effective and more efficient?

The second recommendation is to establish in federal policy the purpose of counting. And this gets partly at what you were just raising, Commissioner Martin, but that the purpose should be to understand the scope, to understand the implications for systems working to prevent maltreatment, to evaluate interventions, and to develop policy and practice related to child well-being, with the idea that the -- that counting will actually help to prevent future child abuse and neglect fatalities and near fatalities.

Third -

**Commissioner Martin:** So, David, can I stop you right there? I have an idea in my mind how that would work, but how is the subcommittee thinking that counting and knowing whether it's 4000 or 2000 is going to help prevent future fatalities?

**Chairman Sanders:** Thank you. Certainly Teri can weigh in as well as Rachel. It's not so much the actual number as the types of maltreatment that fall under that number, the types of fatalities that fall under that number. And it's important to be able to tie interventions to the cause.

So that's one of the major reasons why we think an accurate count -- and so it's not just the number, but it is the accuracy of that number and what's behind that.

**Commissioner Martin:** And so I think that needs to be spelled out, and maybe it is further down, but I just -- I'm trying to be objective and think about this as if I had not sat next to you for this year.

So I thought that's what you meant, but I think it needs to be spelled out a little bit further.

**Commissioner Petit:** Let me, if I may, add to that.

I think it is important to know what the number is or an approximation of what the number is for, to me, what seems to be a very straightforward reason. Which is if 2000 kids are being killed, we marshal certain resources.

What if the real number is 4000 kids? Should we double the resources that we're expending on this thing? At some point, the numbers of children speaks to what resources we need to marshal.

So we don't say we provide enough resource for 1,900 children, and if you happen to be in the unlikely number over 1,900, you don't get help. So I think one of the things that we need to come to grips with is what are we talking about in terms of do the resources match the tasks that we're faced with?

So I don't want to get hung up on this is the number, but to be able to say this is how much off we think it is and it requires a real look at what it is that we're committing resources is going to be important.

**Commissioner Covington:** I also think what we found, and it was sort of subtle, but it was staring us in the face a lot, is that we found that across the country people use the NCANDS number. They use it a lot. But really if you think about child maltreatment fatalities, that number is really only limited to kids known to child welfare in many states. So it's a limited number in terms of what it can be used for.

Our thinking on this is that you create a purpose that would consolidate numbers used by a lot of different places into one overarching purpose and number and then you can sort of filter down which number you want to use for different purposes.

So, for example, I know of a state that only counts kids where the child had already been known to the system and they actually substantiated maltreatment fatalities. They counted that number.

Another state would say, "I'd rather have a number of all kids who died from maltreatment fatalities because I'm just as interested in knowing the kids we didn't know about as the kids that we did know about.

So what we're looking at is coming up with a larger overarching purpose that the federal government would adopt that would be used across all federal agencies and among all state agencies as well. That's sort of our thinking on that.

**Dr. Berger:** I think the comment that I think we saw in each of the states when people tried to say, "Oh, look, the numbers went down," and then you'd go back and it looked like they were counting something different in a different year.

So I think that kind of emphasizes why it's so important because you really can't tell if all the intervention and all the resources that were poured into it actually had an effect because you don't know if that first number was valid or reliable.

**Commissioner Covington:** And the flip of that is states that were increasing their numbers because they started kind of expanding their definition were having a backlash among the press and among others, saying, "Oh my God, you guys are doing a terrible job. Your numbers have gone way up." They were penalized for that. So it was difficult, really, to even do a report on how states were actually doing.

**Commissioner Petit:** So if I could take us back, David, to our Texas meeting, I posed a certain question then several times and I posed it subsequently to people, but not to our own staff and Commission, so maybe we had collected the information and I just don't know about it.

But if you will recall, there was a very significant falling off of child fatalities in Texas, a very significant number, 30 or 40 percent in a one-year period.

And I recall asking the secretary of the department if there was any causal relationship between anything they were doing and those numbers. He was certain that there was. When we pressed them to say what that was, there was no reply. And when we said, "Well, how about going back with your epidemiologist and your health people and everybody else and coming up with it?"

Now, that was five or six months ago. I haven't seen anything. It might be that something came in to staff and you guys are sitting on the information and we're going to be talking about it.

But has anything in fact come to us from the state of Texas on this?

**Commissioner Ayoub:** This morning Tom sent, "Texas child welfare agency not reporting hundreds of deaths," from the San Antonio. So I'll forward it to you. That might be the answer to your question.



**Commissioner Petit:** So at some point the numbers matter. If we're doing ten cases per worker, it's different than if you're doing 20 cases per worker. I mean, that's what it eventually comes down to.

So what I've just established, right, is there isn't anybody on our staff who has received anything that says, "By the way, here's the causal effect relationship between what Texas did in one year and what happened the next year." We haven't seen anything, correct?

I just wanted to establish that. Thanks.

**Commissioner Covington:** For me, all of this discussion we're currently having gets to the heart of the problem, which is we just don't know, because we don't have a consistent standardized system to count these across the states.

**Chairman Sanders:** So that leads into our next recommendation which is to rapidly develop and validate a national standardized classification system.

In other words, we think there should be a single definition of fatality and near fatality due to abuse or neglect that's really established at the federal level and that that's implemented nationally.

Fourth is that we build a child maltreatment fatalities data repository system and standardize the reporting of child fatalities into NCANDS, and we are contemplating that that would be mandated.

As we all know right now, reporting into NCANDS is voluntary, and part of the idea is that there should be a national data system where we're able to answer the questions that we're just asking right now, and we cannot do that.

Fifth is, for the federal government, is to improve the system of child death investigations by developing standards. And again, I think we heard consistently from states that they apply different standards.

There were different approaches to child death investigations and so forth, and we'll come back to that a bit in the state recommendations.

But those are the five recommendations that we have for the federal role right now.

Yes, Commissioner Ayoub?

**Commissioner Ayoub:** Are we suggesting where it says, "Consolidate current responsibility to a federal agency," are we being specific in a recommendation or just -

**Chairman Sanders:** I think we have some thoughts, but we're -- I think that's -- we're at a point of discussion from the conversation that's occurred to this point.

**Commissioner Ayoub:** Thank you.

**Commissioner Petit:** Can I just ask -- I believe in reading these recommendations, is this the time to talk about maybe modifying them, or not?

**Chairman Sanders:** Let me just go over the two state ones and then absolutely, that's actually what we want to be able to do.

So the two that we made regarding the state role are, one, to also consolidate responsibility, but what's most important here in this recommendation is that we are identifying this as a health or medical issue, that the counting and identification of a child abuse and neglect fatality should ultimately be led by a medical professional.

And one of the concerns that we have and that we've heard is the final decision maker, in some cases being the child protection agency, and then multiple different agencies in different states, and we think that it would be best if this is identified as a -- for the counting purposes, as a health decision, and that that responsibility rest with a health professional.

And then finally, we've identified a number of federal mandates both in participating in the system, creating the standardized classification system and really looking for states to meet the federal mandates that are identified for those areas, which will mean improvements in their investigative process as well as greater consistency in definitions and so forth.

So that's our set of recommendations at this point, and I really do want to open it up completely and hopefully will help to facilitate this.

**Commissioner Ayoub:** Could I just get clarification? When you're talking about making it mandatory to report to NCANDS, but then you're saying NCANDS numbers are limited, is that -- could you just explain it to me?

**Commissioner Covington:** So when we go into the specific recommendations, and we also created a little schematic that would explain this, we see there being an overarching child maltreatment -- we called it a data repository, and we started to call it a registry, but David said because registry is also a term used in child welfare, it would get confusing. That's a public health term that is an overarching way to classify deaths.

So you have these data repositories.

From that system, a set number of cases would be reported into NCANDS, based on new standards that would be established that would be mandated.

So you've got an overarching count, and some of those would be identified as needing to be reported into NCANDS. And that may be kids that were known to the system, for example, or under the care of the system. That's not something that we kind of -- that was getting into the weeds again for us.

**Ms. Cooper:** I think at this point I know there's an appetite to go into the more detailed discussion about these, but if we could pause here for just a minute and look at the seven overarching recommendations that have just been discussed and outlined.

Take a step back and think about this as a framework. And think about maybe being a first time reader to this framework. How does this strike you?

I think Commissioners Covington and Sanders are looking for your general feedback right now on these overarching recommendations as a framework for the measurement component.

There's a nice guide of how do you feel about these seven as a framework. You kind of completely disagree or you might be fully supportive and feel like this is really on track, or you might have a lot of questions and want a lot of further discussion, or just have a lot of information needs. You know, what came before this, how were these generated, what drove the development of these?

So you can think about your overarching response to these, but let's start with the question is anything really missing? If this is a framework, is there anything truly missing?

Commissioner Zimmerman and then Commissioner Martin.

**Commissioner Zimmerman:** There's a lot of conversation about federal and state. I don't see tribes. Tribes, my guess is, because they're sovereign nations, would have to be invited to provide that kind of data and tribes would have to be invited to the conversation about how do we define child deaths in the Indian country or for this particular tribe.

So I think that needs to be very explicit in this, because I think tribes get lost in the reading of these sorts of documents at the congressional level, at the state level, at the local level.

**Commissioner Covington:** That whole question of mandate, Marilyn, in terms of mandating states versus mandating tribes, you basically just stated it as needing to have their -

**Commissioner Zimmerman:** Well, I think that part of the conversation for tribal governments is because they're a sovereign nation, is do they want to participate, and how would that look?

Commissioner Martin and I have had that discussion about so much of the information that comes out of Indian country perpetuates negative stereotypes and pathologizes people. And so do we want a disaggregated repository where these are American Indian or Alaskan native child deaths?

How will that look? What kind of access will the tribes have to that data when - how will that data be used for or against tribal people, and will the resources be provided for the tribes to have these conversations.

And, you know, part of this overarching recommendation, for me, for states and tribes is where's the funding for this? And is that coming in at another part of the recommendations, or do we have to have a conversation? But where is funding now?

Because often tribes can't afford to begin to have these kinds of conversations.

**Commissioner Martin:** My question may be included in these seven recommendations, and I just didn't see it, but specifically when we're talking about number 4, under the federal -- to build the national child maltreatment fatalities data repository.

I understand the need to strengthen NCANDS, and making it mandatory may be one way of strengthening those numbers. I thought through the literature and the testimony that we heard that the best number or the most close accurate number, if that's the way to say it, comes from multiple sources; not just one source.

So does this repository that you're recommending include NCANDS and some other sources or just NCANDS?

**Commissioner Covington:** No, it's -- NCANDS is an end product in a sense.

Number 4 is really two parts, and we can show it later when we talk about the specifics. But we envision a larger data repository that would be used for multiple purposes that would capture all cases regardless of whether they were an NCANDS case.

**Commissioner Martin:** So you would bring in like death certificates, death reviews?

**Commissioner Covington:** Yes, absolutely, police reports, the whole bit. It would include a reconciliation audit and a multidisciplinary review. Cases that we identified as needing to go into NCANDS would then be a subset of that.

So this is really -- it's a two part thing. It's creating a national larger data repository, and then as a subset of that, creating standards for what actually goes into NCANDS.

**Commissioner Martin:** And then my second question, under your state, number one, talking about, if I understand this correctly, the leadership of -- you know, the final say of cause of death basically, comes from a medical personnel as opposed to child welfare, if I'm understanding, or law enforcement?

**Commissioner Covington:** It's not really final say of cause of death. I gotta be careful with that terminology. Cause of death is a term that's used -

**Commissioner Martin:** It's a term of art.

**Commissioner Covington:** It's a term of art, and a medical examiner/coroner has a legal right to determine cause of death. And it's not really that you'd have someone at the state that would overrule all these.

What we're seeing is that there is a system in place, and the oversight for that system would be a medical health officer within a health agency rather than child welfare having responsibility for that overarching data repository.

**Commissioner Martin:** Okay. I just want to make certain that child welfare is still participating.

**Commissioner Covington:** Absolutely.

**Commissioner Martin:** And there was some conversation, I can't remember if it was the literature or testimony, where there were recommendations made to move from a coroner to more of a medical examiner. Is that taken in consideration in this number -- okay, thank you.

**Commissioner Covington:** Yes, and it's in -- actually it's under number 5, under federal 5, and then we have some specific recommendations related to it.

**Commissioner Martin:** Thank you.

**Commissioner Petit:** One is I fall into the 2 category. So to start with that is that I'm fully supportive of this. I think it's really a terrific job, and there are a couple pieces I want to talk about. One is an inquiry, one is a comment.

One is, in looking at this, you know, the federal government produces a weekly morbidity and mortality review and I think CDC is who puts it out.

And I think it's an involuntary participation kind of thing. I'm not sure about that, but it's built from the ground up. At some point those deaths they report on are coming from the tiniest geographic unit in the states, increasing everything else. So they have the big mega number they use but it's built from the bottom up.

So is there anything for us to learn from that thing?

Personally I'd love to see a weekly report on the number of kids that were killed that week, just as we every month get a report on how many washing machines were sold, refrigerators and cars. So it would be interesting to see that kind of number.

Secondly, on the second point that you've got, "Overarching recommendations establishing federal policy for the purposes of," and then you've got one, two, three, four. I would add a fifth one which is to identify the resources necessary to address the problem.

So it's implied remotely into evaluate intervention, but that's not the same thing. The question that needs to be posited to the federal government and to the states is what is needed to address this problem.

And that is an issue that we haven't begun to wrestle with yet, which we won't until we've identified what the full scope of the problem is, what we want to do about it, et cetera, et cetera.

And that is a principal reason why you collect data is to marshal the forces necessary to rebuff what the problem is.

So with that, I'd ask that that be incorporated somehow.

**Commissioner Covington:** Will you help me -- resources to develop the systems or resources for something else? I couldn't quite understand what you meant by resources.

**Commissioner Petit:** The resources are, are there legal changes that are needed, are there administrative changes needed, are there dollar changes needed? Are there budgetary and

fiscal implications for all of this, in terms of if you say we're going to go from 1900 deaths a year to zero, which is what we're charged with, it's not the National Commission to Reduce; it's the National Commission to Eliminate.

So what exactly would that take? Does it require more social workers, does it require more birth control, does it require better trained people? What does it require?

So that is the -- I would just note, by the way, that for my part over the last five or six months, as much as I've found the reporting of the researchers to be of interest to me, I haven't yet heard what it is that actually needs to be done about it in terms of the data, and I would just say to all of us here there are a million cases right now that the states are dealing with, literally.

Of that million, sometime in the next year, nearly 3000 or so are going to die, and then the year after that and then the year after that.

So at some point I want to return to specifically what do we do. And it's not counting that's going to protect the children. It's something else. And the counting informs what -- the resources that we need.

So that's my longer answer, and I think we need to sit down at some point and classify what types of resources, and that's the full range, whether it's the power of law or it's the power of money.

**Commissioner Martin:** I failed to put on the record after my clarifying questions, I'm in category two as well. But I fully support the draft recommendations and I think we just need further details.

**Commissioner Bevan:** I don't know how familiar you are with the law that just passed on the SIDS deaths, if you are.

If you notice the introduced version and the enacted version that passed on December 3rd, you will see that many of the recommendations that you are presenting here were rejected by the House of Representatives.

And the President signed the bill that does not have the money for the death scene, and autopsy investigations, for training, for child death review, for child -- for any kind of surveillance.

So how can we go back -- nothing's standardized. It says that we already have this, existing surveillance systems. I know, from listening here, that we don't.

But I do know that I would not feel comfortable and I would be in the first category, "completely disagree." I would not be able to go up and try and push these recommendations when they have been systematically rejected less than three weeks ago.

**Chairman Sanders:** So for those of us who are not as familiar, and particularly looking at the overarching recommendations, can you walk through, for example, which pieces were rejected?

**Commissioner Bevan:** Okay. The way the bill was introduced, eight million dollars for death scene investigation and autopsy grants, two million for training on death scene investigations, 7 million for child death review, 3 million to enhance child death case reporting system, direct national training, use of standardized death investigation protocols, use of medical examiners and not coroners.

All of that was rejected.

**Commissioner Covington:** I don't know if I'd say it was rejected.

**Commissioner Bevan:** It's not in the enacted version. It was in the introduced version. So how do we go back? And I'm sure you were intimately involved in it. How do you go back when it says it has already been rejected three weeks ago?

**Chairman Sanders:** Let me make sure I'm clear, because we're not actually - the proposal at this point for the overarching recommendations doesn't speak specifically to additional resources on top of -- just conceptually. I think as we get into the detail, that could very well be the case. But that's what I'm trying to -

**Commissioner Covington:** I was not intimately involved in the bill. But my understanding is that they decided not to make it an appropriations bill because they were trying to separate out the different pieces and that's why they separated out, and the bill that came out has no

**Commissioner Bevan:** -- appropriated, but it does have specific dollar amounts to it. So it was a bill on SIDS, but it was specifically to do autopsies, do standardized surveillance system, do standardized training, to provide technical assistance, case reporting.

I just don't know, I don't know, since it was rejected, how -- and it was rejected because it's not passed. How do we go back and say -

**Commissioner Covington:** Well, it wasn't rejected. It was rewritten.

**Ms. Cooper:** So maybe one response to this would be to do some further legislative analysis of the bill and to understand where the objections were, what were the reasons for those objections, and to really dig into the legislative history that seems very germane to these recommendations.

**Commissioner Martin:** That's kind of what I was going to say. I think it's imperative for us to understand why it didn't pass.

That was also for SIDS. This is for child, eliminating child deaths. And those are different causes. And I'm not suggesting that's the only reason, but I do think it's imperative that we really understand why certain provisions -- and those would, if I understand, there were a lot of dollar amounts put in the write-up. And I'm not sure that we're at the point of putting dollar amounts. And it may be that they're rejected or -

**Commissioner Bevan:** And we don't have to be naive here. We're talking about funding resources. Funding resources is dollar amounts. And eventually that's what it will be.

**Commissioner Martin:** But if they ask for five thousand and we're not looking at additional appropriations, there may be a difference.

We're asking for children deaths. They were asking for SIDS. And so there are reasons that that may have not gone through.

All I'm saying, I think it's important for us before we just reject it full out to at least understand why that wasn't in the final bill.

Now, if it comes down to a reason that we're trying to put forth, then that's something we need to reconsider. But I don't think we can do that until we understand what the basis is.

**Chairman Sanders:** Let me just make sure, Commissioner Bevan, under the overarching recommendations, is there something specific that you're speaking to related to resources?

**Commissioner Bevan:** Yes, "Consolidate current federal responsibility and leadership to one federal agency." We've had the working group on child abuse and neglect with 40 different agencies for how many years?

What is going to make this different from what we already have? Because we have silos with different agencies and everybody knows it. Everything is talking about silos.

Everybody is talking about not collaborating. That's what the GAO report found. It said there's been limited collaboration between HHS and the National Child Crime Reporting System.

There's been -- so if we can't get collaboration on a 2011 report, when it talks about collaboration, I just don't want to jump to something else which sounds really good on paper but how do we operationalize it.

**Chairman Sanders:** That's what I'm trying to understand, because your comment was that you are -

**Commissioner Bevan:** I completely disagree as it is now because I don't see the difference.

**Chairman Sanders:** Do you think consolidation is not a good idea?

**Commissioner Bevan:** I would like to know how we're going to get there, since we have not been able to do it in the years that we've had.

**Commissioner Petit:** Well, there hasn't been a law that dictated that, and the idea of a law means you involuntary cooperate or there are consequences. So there has been a voluntary collaboration, if you will, among the states and the federal government that we're unhappy with, and we're saying it needs to be mandatory, and mandatory means you need to do it.

**Commissioner Bevan:** Yeah, but we have mandatory requirements under CAPTA and they're being ignored.



**Commissioner Petit:** Well, then there needs to be some enforcement on it, and whether that enforcement is with a governor and a legislature or whether it's with a president and a congress, we have enforcement mechanisms. They just need to be adopted and put into place, right, and get the kind of public exposure which people say, "Why aren't you cooperating with laws duly constituted and passed by a democratically elected Congress?"

So what I think is important for us is that we not start self-censuring and anticipating what the Congress is going to do. Once the Congress hears the full argument, I have a hard time imaging when we had a hundred/zero vote in the Senate and 330/77 in the House, are going to reject trying to protect several thousand children, that's what they've asked us to do.

So as difficult as it has been over the years in dealing with the Congress on these matters, there's a reason why they created this Commission. And we're not going to limit ourselves.

**Ms. Cooper:** So part of what I'm hearing here in this conversation is leadership is tremendously important. So there's the concept and then there's the contextualization of this.

What is the established leadership now? What's working? What's not working, and how would the recommendations address the shortcomings of the current leadership model. So some of it is contextualizing this recommendation around leadership and establishing a single agency as a point -

**Commissioner Petit:** And I think it's very important to note that we don't know yet who the leaders are going to be. There will be leadership that emerges on this once people see what the full scope of this -- from both parties.

There's no question that both parties were supportive of what the Commission is all about, and I think we need to wait and see who is going to emerge.

But my prediction is there will be a number of senators of both persuasions, there will be a number of house members of both persuasions who are going to say this crosses political lines and we'll see leadership emerge. They just don't know it yet, but we're working on it.

**Commissioner Bevan:** Then we have to unpackage this rejection so that we know why these funds were not accepted, and if SIDS is in fact looked at by Congress, because my experience with Congress, they've done it, they're done. You don't go back and say, "Well, that was SIDS, but this is child death fatalities."

I wish it was that way. I'm not arguing anything else. My heart's with everybody else. It's just that I want practically to see how we could get there.

**Commissioner Petit:** Without belaboring the point -- but just a little bit -- what we know is that the Congress says that's it, and then, what a surprise, ten years later or twenty years later or five years later they change their minds, and they finally decide to adopt civil rights legislation or they finally agree to adopt health, whatever it happens to be, or voting rights or whatever it is. So we just keep going back. That's our job, is not to succeed but to put something in front of them.

**Commissioner Covington:** And to be honest, with the SIDS bill, I think what the federal government realized is the work -- a lot of the work around the SIDS case registry, because there is now a national SIDS case registry that's being managed by the CDC. They looked at that and they said, "You guys are already doing what we originally had asked you to do. We don't need to continue it further. So I think that's one of the reasons that the bill was changed.

**Ms. Cooper:** Are there any other reactions to the overarching?

**Commissioner Ayoub:** Yes, I'm still on the subject for a minute.

It's good information to have, that something that is even close to what we're doing, there was a bill, we should know about that. And I don't know if that -- was that sent out to all of us, or any information about that?

And even if it's not sent out to all of us, because we have enough things. But I just want to make sure that there's some staff member monitoring these bills so that we have a synopsis. Because we need the answer to arguments like that.

**Commissioner Covington:** Yeah, it was just signed December 18th, so it's really relatively new and it's pretty short and simple.

**Commissioner Ayoub:** But my question is, is somebody monitoring it?

**Ms. Cooper:** There is.

**Commissioner Ayoub:** Thank you.

**Commissioner Covington:** I had actually sent it out to the staff quite a while ago.

**Commissioner Ayoub:** I'm completely supportive on number 2 -

**Chairman Sanders:** Say that again.

**Commissioner Ayoub:** I'm completely supportive on number 2, but obviously we want discussion, but I'm supportive.

**Ms. Cooper:** Any other general feedback before the more detailed discussion? Any commissioners on the phone, perhaps?

**Commissioner Zimmerman:** We have an email from Commissioner Rodriguez and she would like to state that she supports the overall framework, but she'd like to discuss some of the details such as capturing children who have prior abuse or neglect referrals and extra information or review on cases where children are under supervision of child welfare agency, and ensuring that states are collecting and reporting the type of information that will allow for some research, better information on the effectiveness of interventions to be supported.

**Commissioner Covington:** I think when she sees the specific recommendations, that comes through pretty clear. All of that is captured.

**Ms. Cooper:** Any other commissioners, are we waiting to hear? Then to move into the specific recommendations.

**Commissioner Covington:** So let's get into a little bit of the weeds. Can you put up that chart? I think it's the last slide. It's hard to read, isn't it?

You all have a copy of it as well here. And we just really made this to sort of help make some sense out of the -- not sense, but -- we just passed this one out. There's two documents.

The specific recommendations are listed in the handout you received, "Recommendations for Discussion." And then this morning we passed -

I'm going to go through and sort of describe what we felt to be our specific recommendations. But if you're not really working in this, it can get a little bit hard to understand and we were sort of tripping over terminology and what-have-you.

So the first -- this little graphic describes the federal and the state and kind of - we hope kind of makes some sense of that.

Going into the specific recommendations on the federal leadership interagency coordination and funding to establish what we're calling a national fatal or near fatal child maltreatment data repository. Now, some people would call that a registry, but we're calling it a data repository for now.

We already described the recommendation around designating one federal agency who would provide the oversight, the leadership, and manage that data repository.

We also wanted to establish in federal policy the recommendation around purposes. It's actually the same so I'm not going to repeat that one.

We wanted to require interagency coordination among the multiple federal agencies that currently count their child maltreatment numbers, that they themselves would practice what we think is best practices; that we want to see the states and the local communities do, where they would reconcile the numbers generated by different agencies' surveillance systems.

Surveillance, I use that -- that's a public health term that relates to counting. It's not surveillance, a law enforcement term related to spying on people.

So you would do a reconciliation at the federal level as well by looking at law enforcement, the federal law enforcement reports, the federal NCANDS number, the federal numbers that come through death certificates, et cetera. You would do that.

But you would also use the number generated by the new national data repository on child maltreatment fatalities to create your number, and within that then you could reconcile the different agency numbers.

**Commissioner Martin:** Can you explain that again? I'm sorry, I missed it.

**Commissioner Covington:** So I'll go into more detail about how we see this national data repository working, but within that, you're still going to have agencies reporting different numbers on their own. You would do some work to try to improve that so that that number starts looking the same across all the different systems.

We would expect that the data repository is going to generate a number. Let's say it'll generate a number of one hundred for the state of Arizona, but you might still find that federal law enforcement report is only going to have 50 numbers for Arizona.

We would want some work to see why that is. It doesn't mean that those numbers have to match but to do some reconciliation around those numbers; that there be some formal reconciliation happening.

**Commissioner Martin:** So you're basically saying on the state level as well as the federal level you want some reconciliation.

**Commissioner Petit:** You want what?

**Commissioner Covington:** Reconciliation of the numbers.

**Commissioner Petit:** Let me ask on this, and, Cassie, I'm sure you can help us on this question. Is there currently an annual briefing by HHS and related parties on this child abuse to a committee of jurisdiction in the Congress in which they say, "Here's what happened in the last 12 months with regards to numbers. The child abuse fatalities are up, they're down, they're about the same." Is there that kind of reporting back to the Congress itself?

So in thinking about the point that you raised, which is the voluntary collaboration by all the federal agencies, if once a year or whatever they deem appropriate, they have to actually go before a committee or subcommittee of the Congress and explain what it is that the Congress asks them to do by adopting legislation and having it fed back to show that in fact they're in compliance, if that's not built into this, then there's an accountability question that needs to be dropped in here, right?

**Commissioner Bevan:** Yeah, accountability.

**Commissioner Petit:** Yeah, there's an accountability issue here, and the -

**Chairman Sanders:** Commissioner Petit, would you think of that also as falling under the overarching recommendation in the federal role in defining that further? I think both to get at the point that this isn't just executive branch, but also -

**Commissioner Petit:** A hundred percent exactly correct presentation on it. And look, every single person that I know wishes they were not accountable to anybody. But the reality is we're all accountable to somebody.

And in this particular instance, it's the Congress that has said, "We want this issue addressed." So what's the vehicle, what's the proper vehicle in the Congress to receive a show-and-tell regularly by the executive branch as to what they did to adhere to congressional intent?

**Commissioner Bevan:** What about the child maltreatment report?

**Commissioner Petit:** I'm just saying that there needs to be a vehicle in which it goes beyond the internal bureaucracy and deals with the elected representative of the people on this issue.

So I don't know what the construct of it would be exactly, but we can see the accountability; that's what Congress exists for is accountability.

And one of the things that's happened over the last 20 or 30 years is we've moved away from accountability of the Congress on some of these things, and as much as I like to see the states do good and innovative things, they don't all move forward at the same time and too bad for the kids when that happens.

**Chairman Sanders:** But it seems like this is both the recommendation, a specific one, but we should include this as we think about the overarching direction, strengthening or establishing congressional oversight.

**Commissioner Petit:** Well, if I recall correctly, what the Congress asked us to do is develop a strategy, to recommend a strategy to the Congress and the Administration. And a recommended strategy is greater mutual accountability. That has to go into -- and I can think of several members, Cassie, you work with -- it would be great to send HHS up before them and explain what's happening.

**Commissioner Covington:** The fifth one we already talked -- oh, no, did you have something, Cassie?

**Commissioner Bevan:** I wanted to still ask about the -- you know, they asked -- they said that they're -- GAO reported that NCANDS collects data that is not published, not reported. They collect more than they have, more than we know about.

We never found out what is it that they collected and why don't they publish it.

**Commissioner Covington:** I think if you look at how the states report, you can find out what that is. That comes through when we talk about, under number C, we address that in number C. And I'll go into that in more detail when I get there, including the child maltreatment fatalities surveillance system.

Under A again, we also felt that there should be one federal agency that provides oversight and leadership for the whole child death investigative processes, and that would be investigation processes related to scene investigation, autopsy standards, et cetera, because right now those are sort of all over the place as well.

Does anybody have any more comments on A before I go into B?

A was really what we were thinking of in terms of oversight, and I think I heard what you guys were looking for was to build in congressional oversight as well and accountability.

**Commissioner Zimmerman:** Teri, I don't think we're going to get down into the weeds, but I would think that we have to think about designating that federal agency, because I think that it could be placed somewhere and we'd -- all the rest of us would go, "Whoa," what did you do that for, what did you do that for?

**Commissioner Petit:** That does speak to the question of a principal consideration in any of this stuff is linking authority and responsibility.

So if somebody is going to be responsible for it, we have to have the authority for it, right, and what you're saying is, what you're raising the question of who that might be.

And I think it's too early to decide that. What's that? Yeah, but it has to be part of the discussion, absolutely.

**Commissioner Covington:** The second, B, is sort of where we sort of got into the details of how we would see this national data repository being developed.

So the overarching is to develop a national system that will collect, analyze, and report out on fatal and near fatal maltreatment and we're calling it this national data repository.

So the first thing that we thought needed to happen is in order to do this, you'd need to come up with consistent definitions in a classification scheme.

So you can have all the cases you want that look like something, but we wanted a system that would actually help in an objective way across multiple agencies be able to categorize these cases as maltreatment or not, and if maltreatment, what type of maltreatment it is.

And we were very impressed with the Air Force system. So our thinking is to use that system as a base to actually develop, test, and validate in the field a system that could do this. And the Air Force system uses a multidisciplinary review, case review, multiagency review.

So we actually think the resources need to be put into place to develop the classification scheme. That includes the criteria for even being into the scheme, operational definitions, and then the process. And that would do it, reconciling information from multiple agencies.

So that would be the first thing, is to actually develop the scheme and then validate it and field test it.

**Commissioner Bevan:** Okay, so why would we put money into a program from Air Force that hasn't been, doesn't have validated criteria?

**Commissioner Covington:** It does have validated criteria. It's been validated and is now being used by all Department of Defense -- it's being used by the Department of Defense.

**Commissioner Bevan:** Within a specific population. This hasn't been -

**Commissioner Covington:** It's being used for any child who dies who is a child of an active duty soldier. So it's being used across the board.

We're not saying take that system and absolutely take it over. We're saying take that system and refine it and make it useful and validate it for -

**Commissioner Petit:** For nonmilitary.

**Commissioner Covington:** And it's also not specific to fatalities right now. It's only specific to all forms of maltreatment. So we would want to have them -- we spoke with the developers of this in quite a bit of detail and we spoke to the Department of Defense and they both said it would need some tweaking to be able to be used specifically for fatalities.

**Commissioner Bevan:** See, that's what I meant. The validated criteria is not for fatalities. It's for child abuse.

**Commissioner Covington:** Right, so that has to be done for maltreatment fatalities. Then we felt since the national child death review case reporting system is already being used in multidisciplinary review boards, we would build the scheme as a decision-making matrix into the child death review process. And that's how the Air Force currently does it with their own, they're doing it through a multidisciplinary system.

So they're using that scheme, that decision making matrix in a multidisciplinary way.

**Commissioner Martin:** So I'm a little unclear. We know that native communities don't have death review so they don't have -- they don't submit to the reporting for death review teams. So the recommendations that Commissioner Zimmerman and I are thinking about and drafting -

**Commissioner Covington:** Let me go back. In order to make this work, you'd have to -- number 5 talks about strengthening and standardizing the existing network of teams.

In order to make this work, you've got to have teams.

**Commissioner Martin:** But we've talked -- I apologize, I didn't mean to interrupt. But we've talked about the challenges of having teams in territories and reservations. And until we reconcile that -- let me be more clear.

The recommendations that are being made here are recommendations for everyone but native children, is that correct?

**Commissioner Covington:** No, we're talking about any child in the United States.

**Commissioner Martin:** Then I'm having problems understanding how this is going to fit for native children when we know right now that they don't have systems, they don't have death reviews. And we know the challenges of putting death reviews. I mean, we've had experience with the Navajo and we're still not there.

So the idea of saying that we're going to use the death reviews as a baseline is somewhat troubling to me when we know that we're not going to get those -- we're not going to capture that whole population.

Do you understand my question?

**Chairman Sanders:** And actually, Commissioner Martin, I would suggest that, kind of going back to the early comment that I made about what kind of -- ultimately what needs to be incorporated in our report, there's -- this is done in isolation of all of the other subcommittees at this point. It really is giving direction for the measurements' subcommittee.

But we have to consider the unique issues which we recognize for American Indian children, and ultimately we'll have to figure out, as a full commission, how we put that together in a way that fits and applies appropriately for all populations and gets to the goal that we establish.

**Commissioner Martin:** So what I would like to do then, just so the record is clear then, when I gave my consensus for 2, it's going to be subject to Native American children. Because I -- and I agree with you, I think you're right -- I apologize, I shouldn't say it that way, but you're right in that we have to wait until we get all the recommendations to see how it all fits and gels together.

But I think just so I'm clear, I just want to make certain that my agreement and my full support is with the exception to the fact that native children aren't included or represented in these recommendations at this point.

**Chairman Sanders:** And I would suggest that we consider how we, particularly the two subcommittees, and maybe after the next Arizona meeting, begin to put these together in the way that reflects the priorities for both.

**Commissioner Martin:** Thank you.

**Commissioner Covington:** And it may be, for example -- I could think of an example - it may be that you don't have a formal child death review team, but you have some multidisciplinary system working at a tribal level to look at this and to run the cases through that system. I mean, it may be -- it could be a definitional piece.

**Commissioner Martin:** And so I think it's correct that we should probably wait and hear our recommendations, because I think we have some recommendations along those lines. It's just that when you put it in this one sentence in this context right here, when it's -- because the way I read this, and maybe I'm wrong, but the way I read this is that we're utilizing not interdepartmental agencies but we're using death review.

**Commissioner Covington:** Well, by definition, that's what death review is. It's an interdepartmental, multi-agency team. And we use -- child death review means all kinds of different things, depending on where you are in the U.S. So it's a broad arching. And we actually have recommendations to try to standardize that as well so that it doesn't - so that there is more consistency.

**Commissioner Martin:** I want to be clear, because it is a term of art, and I just want to make certain it's all inclusive. Thanks.



**Chairman Sanders:** So, Commissioner Bevan, we're at a point of a break. Do you want to ask a question now or can it hold until we get through?

**Commissioner Bevan:** It can hold.

**Chairman Sanders:** So we're at 10:05. We'll take a break for 15 minutes, until 10:20, and then we can continue this discussion.

**(A break was taken.)**

**Chairman Sanders:** All right. Commissioner Bevan?

**Commissioner Bevan:** I think I'm just confused about the child death review teams.

Because I know we've heard about multidisciplinary team decision-making models, but have never really heard about what's the best one.

And I've been reading the evidence-based programs and these top tier programs and what they use for effectiveness and evidence. And so I don't know which model, what team comes together, that come together rapidly after a child fatality. What's the model going to look like?

Then with this -- would the review panel's be making an accurate determination of the cause of death and also address the needs of family, and then criminal prosecution.

What do these multidisciplinary teams look like? What composes them? Because when I go back to CAPTA, we still have the three review teams that drives me crazy because I don't know which one, in the reauthorization, what I would do with those three teams, but then GAO said that 49 have the child death review program, 49 states, but it's a voluntary program and it's a nonprofit, it's a nonfederal program.

So they're not going to rely -- they're not going to provide, at least as with GAO, it seemed like they would not provide extensive information to the national child death review team because it's not a federal agency.

One, what is the best model, and two, how -- there's so many different sources, and that's why I'm concerned about the Air Force. I just don't know about any other models. I don't know about these other models.

**Commissioner Covington:** There really aren't any -- right now there aren't any other pristine models that would try to narrow down in an objective way.

What we liked about the Air Force model is it builds in a lot of objectivity. What they found in their analysis is that you can bring people from a lot of different disciplines together and you put a case into that and it's a decision-making tree.

And the multidisciplinary team makes decisions as you go through a case, and what they have found, is that it doesn't really seem to matter whether it's over in Texas or it's done up in North Carolina or it's in California, or you've got 10 people at the table or 20 people at the table.

They tend to come up with the same result, which gives it its validity and reliability, based on how you answer the questions. And basically when you're done, you end up saying, "Yes, maltreatment, no maltreatment." I'm making it really simplified, but that seems to really work, and they've validated it through a research model.

In terms of child death review, we went with -- in our recommendations we went with -- it's a general term, child death review. We know now every state, Guam, and the Navajo Nation and some tribes in Montana are currently implementing what we call child death review.

It's a general term. There's a lack of standards across the reviews, but pretty much 47 states have legislation mandating these reviews, so they're in place. They exist.

Our sense is that it's the most currently available, accessible, and manageable model in place in which to conduct these reviews. Because they're already doing them. They're doing these reviews.

And when we assessed how many of the states are doing maltreatment reviews, they're all doing maltreatment reviews. The problem is they don't have a system in place to help them do the reviews in a way that would actually spew out a standardized approach, so that when a team, a child death review team in upstate New York and a child death review team in Texas does a review, right now they're coming out with really different ways to look at these cases.

By building in this decision-making process, we're hoping to have some consistency.

There's always going to be some dirty data. I mean, these are kids. These are real life situations. You've got community context.

But it would get us a whole lot closer to having some standardization and some validity and reliability. Rachel talks about valid and reliable data a lot. We get closer to hitting the target by using these death review teams.

So the death review teams exist. A lot of them, I think what I mentioned, 17 states right now are currently using their CAPTA citizen review panels as the child death review teams in their states.

But what we really want to do is create a system so that all of the child death review teams across the country -- first of all, we would strengthen and standardize those review processes so they look more alike than different, they would all be required to do the suspected maltreatment cases across the board in all the states and all the counties.

And by doing that, if everybody was doing it, we would end up with what we think would be a lot more similar results than what we have right now, which is it's really hard to make -- it's

really hard to make sense out of what I'm getting out of California versus what I'm getting out of North Carolina.

**Chairman Sanders:** Could you give me a really simple -- I'm sorry.

**Commissioner Bevan:** There's one other question which is do you have any concern about -- are we trying to impose a national standard on the -

**Commissioner Covington:** Yes, we are actually, we very much are.

**Commissioner Bevan:** But each state right now has -- you know, we have 50 state definitions and I don't know how many are -

**Commissioner Covington:** It gets away from the state's legal CPS definition. That's what the system does, because it's got a broader purpose.

It's not trying to say -- it's not creating a definition that is for child welfare. Child welfare will end up deciding on their own, based on the circumstances, whether they substantiate or not, based on their own CPS laws in their state.

This is a bigger, broader look at the case. So it ends up basically determining if a case is maltreatment or not.

It doesn't say you gotta prosecute this because our team said it's maltreatment. It doesn't say you even have to substantiate it. Those will still be left to the individual agencies to make those determinations according to state law. It just creates a better, cleaner number from a broader perspective.

**Commissioner Bevan:** Are you still talking about two, about the states handing in both NCANDS and then another?

**Commissioner Covington:** What we're proposing is that you have this broader system, which would be the repository, and then at the state or local level they would decide which of those numbers they enter into NCANDS.

But at the federal level we would create the standards for what, at a minimum, needs to go into NCANDS. I'm not going to say what the answer is today. But would it maybe mean every case that we substantiated. Or every case we substantiate that was known to the system. Or every case that we -- at least the child was known to the system. I think that's for -- that's into the weeds.

So you would have actually -- you're going to have a broader number and then you're going to have the numbers that go into NCANDS. And through the reviews you're going to identify at least a minimum -- you're going to identify the pot from which you select the cases to go into NCANDS. Does that make sense?

**Commissioner Martin:** My only question, piggybacking onto Cassie's questions, is -- if I understood Cassie's question, are you requiring CPS to submit for NCANDS and then to this federal repository?

**Commissioner Covington:** Well, CPS would be at the table for the federal repository. It may not be CPS's role to be managing that. It may be in a certain state or locality, but you're basically creating a bigger number than you would for the NCANDS number.

**Commissioner Martin:** I get the overreaching bigger number, but is this also taking into consideration the further recommendation you made, something about medical examiner?

**Commissioner Covington:** Yes.

**Commissioner Ayoub:** Could you give me just a sample example of how -- you said there's a broad difference in how the report comes in from one state to the other -- just a simple example.

**Commissioner Covington:** Alabama, I shouldn't say Alabama, I don't know if Alabama does this. It's not only state by state, but it's community by community.

In Nevada, for example, a child may die in a hot car and the county where the child died may not call that neglect, whereas another county may say that's absolutely neglect.

Those two cases get counted completely differently.

If you had this system, this decision-making tree, it really wouldn't matter what the community standards were. Depending how the questions get answered, it would end up being called maltreatment or not.

But that community may still decide to prosecute or not prosecute. That's not part of this decision-making matrix. This is creating a broader definition. Does that make sense?

**Commissioner Zimmerman:** For example, in tribal communities there are multidisciplinary teams, but those multidisciplinary teams, at least in Montana, are for the prosecution of the crime. So they're discussing evidence and witnesses and that sort of thing.

So there's a death that has occurred, that's what we want to do. Or there's been a sexual abuse allegation and they're discussing how we're going to go forward, interviewing and prosecution of it. But I wanted to correct the record to Montana tribes do not have a death review, none of them do.

The first one, we do have a domestic violence fatality review team. It's the first American Indian review team I think in the United States. So that's -- I just want to clear that up.

**Commissioner Covington:** What I was thinking of for Montana, to be on the record, is in Hardin they have a review team there and about 90 plus percent of the kids they review are tribal kids and the teams are chaired by people from Crow, Crow agencies, so that's about as close as you're going to get.

**Dr. Berger:** I guess the one thing I thought in this is that the child death review teams were set up obviously for child death as opposed to near fatalities. So I think the idea of is it

possible -- because the volume of children will go up so much if you started to review near fatalities.

And actually, I think you asked, Michael, there is some data from John Levanthal and Joanne Wood using medical datasets about how many thousands of children would be included in near fatalities and the numbers are huge.

So the question is, is that system going to be able to integrate a huge influx. And I think the other thing that becomes an issue for a lot of death review teams is the medical component. Because physicians clearly don't -- this is like a side part of peoples' jobs. So people do it because it's the right thing to do. But if you're talking about something that takes hours and hours and hours, as the numbers go up, the reality is you probably wouldn't have that voice because it's not part of -

**Commissioner Martin:** Or consistently.

**Dr. Berger:** Or consistently. So I think we do have to talk about does this expand to near fatalities. And if so, can the same system, like that, what is it, Shark Tank - you know, can you expand the market here or does the model have to change?

**Chairman Sanders:** And part of this, as we go through this process and hear from all of the subcommittees, and Commissioner Covington mentioned this early on, the balance between we provide recommendations that provide direction to Congress, direction to the Administration versus we actually identify the specific mechanisms for change. I think it's one that we'll have to consider.

So if we're going to do that across the report, then we need to consider it for each of the subcommittees. We wouldn't just do it for accounting and then not do it other places. I think it's just one of the things we'll have to think about as we continue to hear the recommendations.

**Commissioner Bevan:** Is it possible for us to get together all of the data people from all these different agencies or as many of the prominent ones to understand a little bit more about the data needs and how they would see this national repository work?

**Chairman Sanders:** So at a state level bringing together people who would -

**Commissioner Bevan:** Federal level. Like we have a meeting in Washington and we sit down with the people that have been doing this, and I want to know what do they think they can do, what do they think they can't do.

I mean, just getting fatality added to NCANDS. We're supposedly getting it for this latest child maltreatment report, but only two questions.

It seems like it's very involved to get the Feds to add items or a national repository -

**Commissioner Covington:** We did hear from a number of the federal folks around this. We didn't bring them together to talk about it. But we certainly heard from them in terms of folks at the CDC, NCANDS.

There is no national medical examiner/coroner, but there's a national -- NCHS, the National Center for Health Statistics. Bob Alexander is the director of mortality statistics. We've heard from him. Dr. Schnitzer, who we heard from, has been doing a fellowship with him for the last year. They identified the same kinds of problems that we've identified here, so -

**Commissioner Bevan:** But you haven't heard from Bureau of Indian Affairs, Social Services, U.S. States Attorneys?

**Commissioner Covington:** No, so that's a good suggestion. Should I keep plugging through these?

**Chairman Sanders:** Commissioner Dreyfus is on the phone and she has a question. Commissioner?

**Commissioner Dreyfus:** Can you hear me?

**Chairman Sanders:** Yes, we can hear you.

**Commissioner Dreyfus:** Sorry I can't be with you all. I have a question. Teri, this is fabulous work. Thank you so much. I have a question that relates to the federal agency and a question of governance.

Was there any thinking to kind of some of the conversation that's gone on in the room in terms of similar to I think about PCORI, the Patients and Organizational Research Institute, and they have an advisory council of governance of sorts. It's not just advisory role, it does have a governance role.

Did you think at all about governance around this that might be a little bit unique to typical federal agency practices in terms of the states and the tribes and representation, the governance around this federal agency on this issue?

**Chairman Sanders:** So, Commissioner Dreyfus, every other word was a little difficult to understand, but I think the question is related to governance role specific to federal agency oversight related to states and tribes, is that accurate?

**Commissioner Dreyfus:** Yes, and it could go beyond that. I mean, it could have law enforcement representation. I'm just saying could there be some kind of advisory group that we (inaudible) around this?

**Commissioner Covington:** You mean create a federal advisory group, for example, that would help provide some oversight to this?

**Commissioner Dreyfus:** Oversight, support, having the support where -- I would think if I go back to my state government work, I'd be really interested in where they would start identifying better and best practices around the country that I could be emulating.

And I think it would go a lot easier if it wasn't just coming out of a federal agency, but an advisory; kind of a shared governance model across some of the systems and fields and sectors that influence this issue.

**Commissioner Petit:** Susan, this is Michael. I think there's a lot of merit to that idea of federal advisory. I just would not do oversight within a federal advisory. Federal advisory is to advise.

There's other vehicles that can provide oversight and there are other vehicles we've talked about introducing to provide oversight, including the Congress itself.

So I'd like the idea of a federal advisory whose job is to build upon and strengthen and improve, but not to criticize the agency, per se.

**Commissioner Dreyfus:** Oh, absolutely.

**Commissioner Petit:** Not that I'm adverse to criticizing the agency. I'm just saying you wouldn't view an advisory group very friendly, very favorably if you thought their job was to hold you accountable. If you are the designated federal official, you are accountable to a bunch of people.

**Commissioner Dreyfus:** I absolutely agree.

**Commissioner Petit:** Yeah, I knew that, I just wanted to clarify a little bit.

**Chairman Sanders:** Just a reminder to those on the phone, callers are hearing music, and so all callers please press star six to mute, to make sure that you're on mute. Other callers are having trouble hearing.

Commissioner Bevan, is there any example of how this works for accountability, to have an Advisory Committee around an issue like this, that you're aware of that has been effective?

**Commissioner Bevan:** Effective? No.

**Dr. Berger:** I think actually the example, you gave the example of PCORI, which I think is actually the Patient-Centered Outcomes Research Institute, has been very unique in the way they've approached both incorporating patient feedback and this idea of governance.

Susan, that's what you're talking about, right, PCORI system?

**Commissioner Dreyfus:** Yeah, because we have a PCORI grant, and I found that their model of governance is interesting because it's not oversight, it's not being critical of the agency, but I think it could help with what Teri was talking about and Pat was talking about and Cassie about.

You know, how do we know what works? And when we do know what works, how does it really get spread, and an advisory group could really help with that.

**Dr. Berger:** I actually have a grant from PCORI also, and I think the way they set it up has also really enhanced -- part of every grant is how, if this works, you're actually going to spread it and spread the actual throughout, in our case, the medical profession.

But I think that has huge implications, because CPS, you can have lots of small models that may be effective but it's not being spread throughout. So I think the PCORI model is a really interesting one -- and it happens to be federal -- to look at.

**Chairman Sanders:** Thanks.

**Commissioner Covington:** Should I continue through these?

I think I left when we were -- we were at number 3, under B, "Mandate and resource states to conduct their reviews using records from multiple agencies and utilize the" -- what would have to happen is the National Child Death Review Case Reporting System would have to be revised, a module would have to be built into that.

And what we envision is you would actually envision the decision-making matrix right into the reporting system so that would end up being able to classify and count the cases in an electronic system that would then be sent, you know, into a national depository.

Now, people are going, "I don't really get it." There's currently two efforts that are being implemented right now that do exactly this.

One is -- and it may be part of this legislation that Cassie had mentioned.

Four years ago the CDC launched a sudden unexpected infant death case registry, and they used the National Child Death Case Reporting System as their basis but they developed a special module into that and then they funded nine states.

The nine states are given a lot of oversight, but they're required to identify every single sudden unexpected infant death in their state, they're required to conduct a multiagency review, and to do a complete death scene investigation on these cases.

Once they're done with the review, they enter their data into the system, the case reporting system, and it actually classifies the death or it categorizes it as what type of sudden unexpected infant death it is. It talks about whether it's a suffocation or a SIDS or what-have-you, and then that data is going into the national SIDS case registry.

This year, the NIH and the CDC funded another ten states to do exactly the same thing for all sudden unexpected infant, child deaths under the age of 18. So they're funding ten states to do the same thing. And the National Child Death Review Case Reporting System was rebuilt and it's got a brand new module in it with a lot more questions that are very specific to those kinds of deaths.

So the ten states are going to be required to identify a hundred percent of all their deaths, conduct case reviews, collect comprehensive information from multiple records, multiple sources, do the reviews using kind of that reconciliation, and then classify the case using sort of a very established review panel.



And then it will be funneled in and you will have at the national level, or at least in these ten states, comprehensive, complete population-based data on all deaths, all sudden deaths of kids.

So our thinking was you would model that. You would build in the decision-making matrix that would get identified much like the Air Force model. You'd build that into the system and states would then do the reviews, identify and review all suspected maltreatment deaths, and then those data would be funneled into a national repository or registry.

Does that make sense, everybody?

**Commissioner Petit:** It makes a lot of sense to me, and I would just note that it's consistent with the work that Jennifer and I and Bud Cramer and Tom have been doing on the CPS protection aspects of using a multidisciplinary team approach.

I think something that's going to emerge from this, I would hope would emerge from this, is that multidisciplinary approach is always better than single disciplinary approach, and then the question is where does that get applied? Where is the threshold that kicks it into place?

And I won't preempt myself now by talking about what we're going to talk about this afternoon, but it's the same basic principle, is surround these kids with the best of what all the different disciplines can provide.

**Commissioner Covington:** The interesting thing with the CDC's sudden death, sudden unexplained infant death, and the new NIH CDC sudden death in the young registries is that the states -- it didn't take a lot of money in the states to get them to do a hundred percent. And it's been -- watching the data quality improve over the last three or four years has been remarkable.

We are pretty convinced that all the participating states, and there's some big states in there, are reviewing a hundred percent of all their deaths, they're identifying and reviewing a hundred percent because they got a little bit of money to tone its important work. And I mean we're talking \$10,000 in New Hampshire. It didn't take a lot of money to make that happen.

**Chairman Sanders:** Commissioner Martin?

**Commissioner Martin:** So one of the questions I have, if I understand and remember the act and our requirement from Congress, we're to evaluate to eliminate fatalities for zero to three or five, isn't that right?

**Chairman Sanders:** Actually, the language includes both reduction and elimination so it varies a bit. But yes, there isn't an age limit.

**Commissioner Martin:** There's not; okay, good. And my reason is because I wanted to make certain we had a conversation, particularly when Commissioner Zimmerman and I talk about our recommendations and our preliminary information. But as long as there's not an age in there. Thank you.

**Commissioner Covington:** And I know we've heard from Jennifer about the importance of looking at some young suicides as being due to neglect. I know we have those through our agenda to review system.

**Commissioner Martin:** Good. Thank you.

**Commissioner Covington:** And young teenagers who have been killed by their caregivers as well for other reasons.

The next thing, then, would be to -- well, I had number 4. Number 5 would be to help the states standardize and strengthen the network of review of these multidisciplinary teams.

So that kind of covers, one through five, sort of cover the way we see building the data repository system.

The next one is to help at least, as a start, identify some of the cases off of death certificates is to add a check box to the death certificate to indicate maltreatment and to provide guidance to the states on when this box should be checked.

There are a number of categories that states can select to add to death certificates. The problem is those are usually state specific. So states can decide for themselves what they add to death certificates.

The last one is to encourage states to establish a high level child maltreatment health medical professional to oversee and guide the state's data repository activities.

And I think inherent to this is we really want to take it out of the control of just the child welfare agencies so that we're not just capturing kids that are known or identified by CPS. But we're looking to get a broader number that's more of a public health approach to maltreatment.

Under Roman numeral B, part of this -- but we still didn't want to leave improving the child maltreatment surveillance system in terms of what goes on at NCANDS.

We felt that at the federal level that NCANDS should work on creating a separate reporting and analysis file into NCANDS.

Right now there's not a separate file in NCANDS for maltreatment reporting, maltreatment fatalities reporting. It's kind of captured in as part of their general piece. We wanted to create an actual separate file where reporting and analysis would be done.

And within that, we wanted to tell the states -- we wanted to expand this current set of data elements that are required to be submitted in NCANDS. Because, Michael, as you reported many times, it's really limited right now, what we know about kids who die that are reported into NCANDS.

So what we wanted to do is the states would use the data that they generate in B, where they're collecting really comprehensive information, and at the federal level we would define what from B we want submitted into NCANDS.

Maybe it's further information on the child, further information on the perpetrators or the supervisors, or further information on the system's response to those cases. There's all kinds of pieces we could identify that would be put into NCANDS.

**Commissioner Martin:** Particularly based on what Rachel said earlier about the near deaths, and I noticed that C1 talks about fatalities and near fatalities. Is it necessary, then, to be specific enough to say a separate category for fatalities and a separate category for near fatalities just because the number -

**Commissioner Covington:** It goes back to the scope problem.

**Commissioner Petit:** Then the question about what to do with it is a separate question entirely, but knowing it is essential.

**Commissioner Covington:** So then 3 is just requiring that states enter these data elements into NCANDS. And it may be that we could create it so it's done electronically off of their child death review, their multidisciplinary reviews, so the information can get entered electronically and it doesn't require a lot of extra effort on the part of the states. So there's all kinds of creative things that could be done.

And number 4 is actually supposed to be Roman numeral D, because we saw it as a separate piece not under NCANDS but as a separate piece. And that is that there be a national report bringing together the information that comes out of the data repository for Congress and the President and it includes a lot of information around child maltreatment. So we see a national report being generated off of this information on an annual basis. Maybe this is the place where we build in the accountability then.

**Commissioner Martin:** The congressional report -

**Commissioner Petit:** Right.

**Commissioner Covington:** So that actually is supposed to be Roman numeral D, not number 4, under C.

And then the next one is to improve the quality of child death investigations and the identification of child maltreatment deaths.

You can't really do these unless you find them first. You can't do good reviews. So the first would be to develop a nationally standardized child death investigation protocol by use in the field.

We don't have one right now. We get a lot of calls into our office from people saying, "Don't you have a death investigation protocol for child abuse?" And we don't have one.

We have the sudden, unexplained infant death investigation protocol, but even that is a little bit outdated. So we think some work needs to be done at the federal level to develop these tools.

And then obviously there has to be national training and resources to encourage widespread use. The CDC did that with their sudden unexpected infant death protocol about eight years ago where they conducted training academies around the U.S.

And I mean it had really widespread significance, but it's time to do that again, and it's time to do that for a full scale child death investigation protocol.

We would encourage states to utilize forensic pathologists in all suspected child maltreatment deaths. There's ways to do that. We left that pretty general.

**Chairman Sanders:** We have another question from Commissioner Dreyfus. Commissioner Dreyfus, you may still be on mute.

**Commissioner Dreyfus:** Let her finish, David, and then I'll ask my question. Thanks.

**Commissioner Covington:** Do you want me to finish the last two then, Susan?

**Commissioner Dreyfus:** That would be great.

**Commissioner Covington:** We also talked about encouraging states to establish an administrative position at a high level in their state of an experienced forensic pathologist to provide training and oversight and ensure that high quality investigations are occurring in all their sudden and unexpected child deaths, and we would encourage states to move from coroner systems to medical examiners.

One suggestion to do this would be to facilitate the transition by expanding pathology training programs, because there's not enough forensic pathologists, and increasing funding for medical examiner facilities, equipment, staff, and training because that currently doesn't exist in many states.

So that is it on our recommendations. Then there's also the schemata that you can look at which tries to make a little bit more sense of it in terms of how we see it all tying together and where we see sort of things happening.

I guess the one part I would point you to, because it seems to be the -- the most confusing, I think, is how we have this overarching classification system and then we have NCANDS almost as a subset of that. And I think that that's the important piece, that we're not thinking of NCANDS as being the solution to this, but that we're thinking of a broader repository of all this data and NCANDS becomes a smaller part of that.

And that little triangle I put towards the bottom of that would really explain that. So that we're trying to capture all, maybe not, maybe yes, near fatalities, all fatalities, and then under that, all deaths from CPS, and then even all deaths that had convictions.

And if you look at the right here, where you've got the two arrows coming together, putting all the data into the report that comes from both the larger multidisciplinary reviews as well as the data that's reported into NCANDS.

**Commissioner Martin:** So, Teri, can you explain to me what you mean by the deaths from convictions.

Because I would assume that we would be -- off the top of my head, I would assume that we would try to capture the deaths from any kind of criminal investigation as opposed to just convictions. Because convictions means, you know, that someone was able to, a charging agency was able to prove a certain crime. That doesn't mean that a death didn't occur.

So I would suggest, off the top of my head, rather than convictions, I would say criminal investigations.

**Commissioner Covington:** Perfect. But ultimately, it'd be interesting to see how many of those even had success in the courts.

**Commissioner Martin:** But the problem with that is technicalities.

I mean, if a state fails to prove jurisdiction, technically, right, and then you have to look at the appeals and all of that. So what we're really interested is the death and the occurrence. So we can get that from the charging documents. We can get whether he beat or she beat or shook the baby, and that's what we're interested in for our purposes, right?

**Commissioner Covington:** Yes.

**Commissioner Petit:** Susan's on the phone, and I do have a question, but I can wait for Susan.

**Chairman Sanders:** Commissioner Dreyfus, did you want to ask your question now?

**Commissioner Dreyfus:** Yes, I do. Teri, just a couple of things that I wanted to ask you. First of all, how did you guys look at this in relationship to the current ombudsman function? Washington State ombudsman appointed by a governor reported to the governor, but did all of our -- did an annual report on all of the deaths in our system and had very much of an oversight, independent role to the child welfare system.

How does what you're recommending influence the current ombudsman system that some states have?

**Commissioner Covington:** We actually didn't spend, we didn't spend a lot of time thinking about making improvements to the ombudsman function.

I would see an ombudsman as participating in the multidisciplinary reviews, and they definitely are reviewing a super subset of all of the cases that would probably come through the multidisciplinary review. And they themselves are doing their own internal, oftentimes very detailed reports on these cases.

We didn't make specific recommendations around ombudsmans or enhancing that system. I kind of thought maybe that that was the role of Michael's committee, but maybe you think -  
- Susan, do you have some ideas about how it might tie into measurement?

**Commissioner Dreyfus:** I think it's going to be an issue of clarity. Because I know like in Washington state the ombudsman put out a report every year on the child deaths, and it was -  
- so we really use that function in that way. So it was more than just being a participant.

In the multidisciplinary review they had a larger role in terms of how they roll it all up. We would identify themes and issues, and yes, it went beyond child deaths, but it certainly included child deaths.

So I just wanted to know -- actually they restated it very different, but how it might create some confusion where there are state ombudsmen offices with this larger role.

**Commissioner Covington:** That's a really good point. The other thing I didn't really mention here is one of the reasons when we talked about standards, and I didn't get into the weeds on this, is we have states that have more than one review process going on.

So Kentucky, for example, has their public health reviews and then they've got their special child maltreatment reviews.

I think once these standards get developed, decisions have to be made about who's doing these reviews, who's running these cases through this decision-making matrix, and how is that getting done.

**Commissioner Dreyfus:** My next question, one of the that things I've always -- and this is kind of one of my ah-ha moments in this process with you all -- can you hear me?

One of the things that this process has made me clear on is that who ultimately gets to make the decision on how a child died? I appreciate we go through the multidisciplinary review, but somebody, right, ultimately has to sign off, has to say, "This is how this child died."

And I know of my own thinking that should not be the child welfare agency.

**Commissioner Covington:** We really feel that that's true. That's how we feel that this process gets us to that.

**Commissioner Dreyfus:** (Inaudible) cause of death.

**Commissioner Covington:** I'm sorry, we tripped over -- that's really how we ended up putting this system together, is we feel it takes it out of just looking at these from a child welfare perspective.

When you talk, though, about who ultimately makes the decision about how the child died, that still is -- we have to be really careful with that, because that is, by law, the medical examiner/coroner role. It's just that you can put other information in to see if maltreatment was a part and parcel of the case.

**Commissioner Dreyfus:** Okay.

**Commissioner Covington:** So terminology just becomes important.

**Commissioner Dreyfus:** Okay. Another thing is capacity. So I think about this, and I put on my child welfare director hat again, I think, okay, here is the federal government coming to help me some more, and then it's about capacity, it's about resources.

You know, states are losing -- every year we don't get finance reform done, states are losing a lot of money from 4E. And I look at this and I think about SACWIS. This is where I think federal finance reform kind of connects in with this commission only because of the timing of all of this.

But I think about SACWIS and the need for further enhancement to SACWIS. And is there just an assumption that technology in states are going to be able to do what you guys are envisioning it can do or does this need to get added in?

I know those of us that are part of finance reform discussions right now, we're talking about wanting another round of enhanced funding for SACWIS just to make it a more integrated system. Is there any way that this connects in with that?

This always takes me back to this is all great, but at some point I want to know, what does this mean? What does this assume in terms of my state's capacity?

**Chairman Sanders:** And, Commissioner Dreyfus, I think that's a great point, and part of the early discussion on this was that we want to get a sense of direction, but we'll need to put everything together from all of the subcommittees to begin to assess some of the broader issues. And I think one of those questions is going to be a question of resources, and so to make sure that we're flagging that as we go along. But that we'll have to consider that when we have all of the information in front of us.

**Commissioner Dreyfus:** And all the ins and outs, so I just want to put on the table now, today and tomorrow, pay it forward, that I do hope at some point the Commission has a discussion about the federal finance reform in child welfare because it could both create an opportunity or not. And the timing seems to be somewhat coinciding potentially.

**Chairman Sanders:** Thank you. Commissioner Petit and then I know Commissioner Horn has a question.

**Commissioner Petit:** We are in a committee that properly is doing post mortem. I keep returning to premortem with we'd like to not have kids be dead, to review their cause of death, by intervening beforehand, and I have a very strong view that law enforcement is a complimentary piece to child welfare in a certain percentage of cases where there is real potential for damage to a kid.

So this question, I guess, Rachel, is for you and then there's a follow-up to it.

Are you aware of any research that's been done on near fatalities being a stepping stone into fatalities? Do you have any idea what those numbers look like?

**Dr. Berger:** You mean how many children who nearly died then go on to die?

**Commissioner Petit:** Yes, not from that event, but from a subsequent event. Somebody gets hurt, somebody goes to prison or not, somebody moves to a different community or not, and there's a kid who almost died from an incident previously. Do you know, has anyone researched that?

**Dr. Berger:** The answer is no, not that I know of, but primarily if you think about when we have a near fatality -- so we're saying once the child dies, it's too late.

Near fatalities are taken fairly seriously by the CPS system and often those children are removed and treated as fatalities. So many of those children are so devastated, first of all, they're not going back.

**Commissioner Petit:** Right, and many and most and a majority of and a plurality of and a lot of them is good but it's not every one.

So when we talk about they equip to pull, if the mother is in that situation and was not responsible for the death of the child because it was some jerk that she was living with who ended up killing the kid, they may think the problem is solved because he's been removed from the picture and that she's got the child.

And so this guy gets out of prison and is heading back towards the same home, where does law enforcement come in and say, "We're going to intercept the situation here. There was a kid nearly killed three years ago, the guy is back in the streets, and is he at home."

**Dr. Berger:** I think it's a really important point. We need to start looking at it, but the problem is we first have to define what a near fatality is because we need to know how you define it.

But I think then you also have to deal with the issue -- we could look at that data. Nobody has because we haven't defined near fatalities. And these are long-term issues. If you look back, we certainly have children who died where CPS knew them, and in hindsight, maybe those should have been classified as near fatalities.

**Commissioner Petit:** But in some of the deaths that you reviewed, Teri, with all these death review teams, I'm certain there's a lookback as to whether or not there was a kid that was injured.

So if you took a thousand cases at random that you've looked at where there was a death, you could say, "Gee, in a hundred of these there was something that happened earlier," or in nine hundred or in none of them, right?

You can look at that without making that a longitudinal study that we don't know anything about for a few years.

**Commissioner Covington:** What's hard to ascertain from that data is did they have a prior injury that almost killed them, that gray area.



**Commissioner Martin:** I can't tell you nationwide but I can tell you anecdotally in Cook County, if we have a kid who dies, dad or paramour killed the kid, we will get the mom and say lack of supervision more times than not, and in my humble opinion, too many times.

You know, the mom may have no consciousness of the guy being an idiot, right. And we leave it, and rather than putting mom in interventions and services in supporting and building up her capacity, we automatically make the assumption and cut her off and terminate her rights.

So my point is although we don't have studies to show it, I will tell you anecdotally on the street mom typically does not get that child back.

**Commissioner Petit:** But I will say anecdotally in dealing with many courts and prosecutors and CPS, that there are a number of instances where it does happen, and the problem that we have again is a hugely diverse system in which independent decision-making is being made in thousands of places by thousands of people.

So I don't doubt what you just said in terms of what you've experienced; I've just also been involved in cases where the guy comes back and now finishes the job that he began three years ago, or four years ago, or whatever it is.

I'm not blaming the mother on it. I'm just saying it would be interesting for me to know how much of a predictor that is. And we know that overall previous involvement with the Child Protection System is a predictor of whether you're going to be involved with the Child Protection System.

Again, that's one of the things that we got in our earliest studies. So, Patricia, I hear what you're saying about not rushing to a conclusion about what to do with it. I think each of these needs to be dealt with individually one at a time, not a one size fits all.

But we can't deny the fact that there are situations, you just progress from one to the other. And in some instances, the CPS worker can't do much about it, but law enforcement could. They could say, "We don't want you in that household, it's a violation of probation or parole," or whatever it happens to be. I'm saying extreme cases.

**Commissioner Martin:** So I wasn't countering against what you were saying. I was trying to support what Rachel was saying basically, that near deaths are basically considered like deaths, in court. We look at them very similarly in most courts.

**Commissioner Petit:** In most courts.

**Chairman Sanders:** Commissioner Horn has a question. Commissioner, are you muted?

**Commissioner Horn:** This is Wade. I wasn't here for all of the conversation. So some of my questions may have been answered as you went through what I thought was a very good, thorough, and on point set of recommendations.

I do have a couple of questions. The first is when you talk about consolidating the federal responsibility in leadership into one federal agency to provide oversight leadership, blah, blah, did you identify or recommend what agency that should be?

**Chairman Sanders:** Actually that was a recommendation from, I believe, Commissioner Zimmerman, that we consider doing that. That was not part of the initial recommendation.

**Commissioner Horn:** So that's no longer a part of the recommendation package?

**Chairman Sanders:** No. I think Commissioner Zimmerman suggested that we need to identify the agency.

**Commissioner Horn:** So did anybody have thoughts on that, which agency?

**Commissioner Covington:** No. Do you?

**Commissioner Horn:** No, I just was curious. Okay, I'm glad others had the same questions I did in that regard.

Secondly, you talked about including some additional items in NCANDS. Have you identified what those data elements are?

**Commissioner Covington:** No. We did -- we have some ideas because we've heard it from people. Some recommendations or additional data elements would be more information on the child characteristics, the caregiver characteristics, the perpetrator characteristics, circumstances at the time of death or leading to, agency systems, and the type of services that the child was receiving before the death.

Those kinds of questions were sort of considered, but we didn't come up with a laundry list of what that whole list would be.

**Commissioner Horn:** Is that something you plan to do or leave it open-ended like that?

**Commissioner Covington:** Well, I guess I'm leaving it out to people to think -- is that too much for us at this point or do you feel that should be something we do?

**Commissioner Martin:** This is Pat -

**Commissioner Horn:** What I heard, the federal government requests information from states or agencies, they have to estimate what the burden, the cost and the burden of collecting that information is.

And so one of the reasons why the federal government often does not collect as much information as you think might be helpful is because of the requirement that they actually go through a regulatory process and part of the regulatory process be to estimate, to get some estimate of what the burden is for collecting that information.

I think we just have to be cognizant of that fact and not saying that we shouldn't recommend expanding data, but I think the more specificity there and with a clear rationale as to why it is that information should be included would be helpful.

It may also be helpful to get a sense about whether that information is already being collected somewhere else as opposed to having a state agency submit information in a redundant process.

So if there's information then to be collected -- fashioned for some other purpose, we may want to try to figure that out rather than just saying, "Okay, we also want you to input that information here as well."

**Commissioner Covington:** Commissioner Horn, I had actually made that recommendation, is that a lot of this information would already be coming probably through the multidisciplinary case reviews, and there could be a way to electronically do a dump of that data right into an NCANDS data file.

With the way -- you know, things are moving nicely in terms of the way there's some nice data integration systems. There might be a way to make a one-way transfer of that information and get rid of all that redundancy.

**Commissioner Horn:** Yeah, I think we're at a point with information systems where that kind of interoperability can be done relatively easily.

So we may want to clarify that recommendation to say it's not just about -- the way it reads right now suggests that you're asking for new data elements to be part of the NCANDS, their data collection system, whereas what you may want to say is to survey other data systems, that they already have information that's relevant that could then be electronically incorporated into a data repository that could be utilized for this purpose.

**Chairman Sanders:** Commissioner Bevan?

**Commissioner Bevan:** In the GAO report -

**Chairman Sanders:** I'm sorry, Commissioner Horn, go ahead.

**Commissioner Horn:** One last thing, then I'll be quiet. And it's a relatively small thing. So I really like the fact that you talk about, because it's one of the things that I found very interesting in our field hearings and discussions, is the similarities between fatalities and the near fatalities.

And in a lot of these recommendations you used that, but there are certain recommendations -- and now I'm going with the, not -- I'm going with the document that was sent out, that there are some places where you sort of move back to just fatalities and not fatalities and near fatalities. And you just might want to go through recommendations.

And unless there's a compelling reason to suddenly delete near fatalities, I would encourage you to rationalize that so that in each of those recommendations we're talking about both fatalities and near fatalities.

**Chairman Sanders:** Thank you, great point.

Commissioner Bevan, then Commissioner Martin.

**Commissioner Bevan:** Could you tell me -- the GAO report talked about the fact that the NCANDS form had to be reapproved in 2012. Was it reapproved and were all the data elements reexamined?

**Commissioner Covington:** I don't have an answer for that.

**Commissioner Bevan:** The GAO report discussed that the office management and budget and state advisory groups would also be looking at NCANDS and that the form itself has to be reapproved in 2012. So I don't know if it was reapproved in 2012 or not.

**Chairman Sanders:** We can check with staff pertaining to that issue.

**Commissioner Martin:** So, Commissioner Sanders, is it possible that we can have a parking lot for global issues for like a preamble or something, to whatever our recommendations might be?

And the reason I ask that, as I look at the recommendations or the draft recommendations that have just been presented to us, one of the things that oftentimes in Cook County, and again, only because I know Cook County -- and I envision that this happens in other states or localities -- when you talk about a child death, the first thing is to assess blame.

And the blame typically goes to my child welfare agency, when the reality is the judge is the one that puts the Johnny Hancock on the order and all these service providers have made recommendations to the judge that makes that ultimate goal.

So when we look at child welfare, the system is bigger than child welfare, and I think this federal regulatory repository really does lend itself to talking about this idea that child welfare or the system for protecting kids is larger than just child welfare.

So I think it does two things. I think it makes certain that from the federal government it is articulated that it's bigger than child welfare and includes all the spokes of everyone who feeds into it.

But also, that the idea is not about assessing blame as much as it is finding out how our children are dying and how to eliminate those deaths and spreading the responsibility to all of us, and making certain that we -- so if there's a place to put that until we get to the end and make certain that somehow that is included and that policy, if you will, is included in our recommendations, I would greatly appreciate that.

**Commissioner Bevan:** At the same time I would also want to make sure that we also mention that the assumption is in the child death review teams that you're looking at -- something went wrong because this child has died. What went wrong? Are we not going to answer that or are we just going to count it?

**Commissioner Covington:** No, you tend to look at what went wrong and where the systems broke down. But most child death review teams that I work with, they're looking forward.

So they're saying, "What can we fix so that in the future this doesn't happen again?" It's not their responsibility to go and -

**Commissioner Bevan:** It is their responsibility to know what went wrong.

**Chairman Sanders:** I think that the way Commissioner Martin characterized it is exactly right. We were looking purely at counting. The broader questions will need to be answered by the full commission and we'll -- and this is one of the themes, that it's hard to walk away from this saying -- and especially with some of the things that we heard -- saying, "Everything is just fine," and we're not going to look at identifying where there might be blame. But I think that has to fit within a larger context and our charge was narrower.

So I think really identifying these themes and making sure we address them is going to be important.

**Commissioner Bevan:** Yeah, but that goes back to who's on the multidisciplinary team. I still don't understand.

**Commissioner Petit:** These are not mutually exclusive ideas. The idea of what went wrong is essential because you don't know what to do the next time differently.

On the other hand, we are talking about going forward, and so it doesn't work to say what went wrong is that this worker had 30 cases and chose this one and made a mistake in choosing it so let's get rid of the worker. Well, the worker is not to blame for having 30 cases, right.

So I think these two things are logically connected.

**Chairman Sanders:** Agreed, and I think that we need to consider where we want to look at that issue, because do we look at it for the cases known to the child protection system. Do we look at it more broadly? I mean, there's some things I think that we'll need to consider as we're doing it, but I think it's a point we can't escape.

**Ms. Cooper:** I want to jump in here with a couple of questions. So I believe, Commissioner Covington, you have completed walking through all of the recommendations under the specific recommendation section. So we can see if there are any further questions.

But I wanted to recap that the questions and comments are captured not just in these notes on the wall, but we have professional recording going on. So we really have captured all the questions and discussions.

And in terms of the next step, because we are approaching the close of this deliberation period, should we establish a process for how your subcommittee would like to process and address the questions, the real priority questions that came from this and how it fits into the larger work of the other subcommittees? And even the external work going forward, meetings with other additional external experts and whatnot.

**Commissioner Martin:** One of the questions I spoke with Commissioner Zimmerman at the break about was that so many of the recommendations that this subcommittee brought forth have connections with other recommendations or draft recommendations.

So I wonder whether or not -- I like the idea of taking kind of a building consensus assessment as we go along, but I would hate to say that we would finalize these before we go to the next ones, because I think ultimately we have to put them all together before we can really say whether or not we can recommend A as opposed to X.

**Ms. Cooper:** And that ties into the goal statement Chairman Sanders talked about in the beginning of this, that this is ultimately -- everything needs to fit together into a cohesive whole.

So how to now marry up the recommendations around measurement, refining them, addressing them, amending them, based on today's conversation, and at the same time now folding in the conversations going on in the other subcommittees.

**Chairman Sanders:** And part of the idea is that this is full commission work. We have assigned specific topics to subcommittees, but ultimately it has to be a product of the full commission. And so it's important for us as a subcommittee, and it'll be true of all of them, to have direction from the full commission.

And that's really what we were seeking, not a final product that then governs everything that we do from this point, but says you're on the right path and this is fitting in or these are things that you might want to consider. So that really is the idea.

**Commissioner Covington:** For example, I think our subcommittee will go back and work with you guys on looking at how we build tribal issues into some of these recommendations so they make sense that way as well.

To me, I don't see this as a closed and complete session of recommendations at all.

**Commissioner Petit:** I think that all of this is terrific in terms of gathering information necessary to modify practice law, resources and so forth.

But I think one of the things that I'm expecting from this committee or from the committee as a whole or commission as a whole is a proximate guess informed as to what the magnitude of this problem of child fatalities is.

So I'm expecting that someplace we're going to say, "Nobody knows what the real number is, but here's why we think it's more than this. We think it approaches," this kind of thing. The magnitude of this issue is very significant.

So I don't know whether that falls to Teri and her group to draft that statement or we're going to have a conversation about what that looks like and then have staff draft that statement, but somebody I think has to have -- we as a commission need to say we estimate that the death toll in this country is somewhere between a low of this and a high of that.

**Dr. Berger:** From a research perspective, you can -- it's not a true man's meta analysis, but you can take each of the studies, like the ones -- reconciliation in California, the reconciliation in Rhode Island, those three states that did that reconciliation.

You can take those numbers and we can say, you know, we put all this together, and you can do the same with near fatalities based on some of the data from Joanne Wood and John Levanthal, we believe that there's about 18 times more, and here's our confidence interval.

I think that's a reasonable thing to do, just based on all the research we've gone through. So I think if that's something that's an important outcome, we can do that.

It's not officially in that analysis but you can put together all the papers.

**Commissioner Petit:** Right, and if you did that, once we saw it, we could then start to subject it to critical review, both from a political point of view and a public education point of view, because that's eventually where this is going to end up.

**Commissioner Martin:** And again, Mike, I'm not pushing back.

**Commissioner Petit:** You keep saying that every time you do push back. But that's all right.

**Commissioner Martin:** The only caution I want to put out there is if we -- so if I'm the secretary of whatever, whatever, and we put a number out there that I think exacerbates or exaggerates the problem, does it turn me off?

And does it matter if it turns me off? I'm not asking -- so I'm just putting it out there as something that we need to think about, right, and then we have to weigh whether or not it's more important to do this kind of study or not. But I do think it's something that we just have to consider.

**Commissioner Petit:** Well, presumably we're not going to exaggerate anything. Presumably we're going to have an informed guesstimate as to what it is based on what Rachel just talked about.

What I do know is that the entire country, politically and media wise, pivoted on its heels about two months ago on this Ebola thing. There were five cases that were brought to the attention of the American citizens. One person died who wasn't an American, and the entire nation just thought, "Oh my God, we need to address this."

We need to have the same kind of response to three or four thousand children a year being killed, which is on the front pages every day, but has not entered the political arena yet, and it's going to matter if we say the number is 2000 rather than a couple hundred.

**Commissioner Covington:** Michael, I'm wondering, though -- I mean, one of the charges and what we discovered through our work is that we don't know. And so we're trying to create recommendations to help us get there.

I guess I'm leery about trying to come up with a number when I'm basically at the same time saying we really don't know. The GAO spent a year and a half trying to come up with a number.

**Commissioner Petit:** Teri, who knows more? I didn't say there was a number, I said it was a range. It looks to be a low of this and it could be as high as that, and then I made a point of saying we need to describe how it is we arrived at that.

So I've got three peer-reviewed journals that have said the underascertainment is between fifty and hundred percent or more. This isn't me saying it, it's three peer-reviewed articles that said it. So I think we need to take that and put it on the table and not be afraid of it. And it'll be an informed basis. We'll have to be able to defend it.

If it's an exaggerated thing, people are going to say, "You're crying wolf and it doesn't add up to anything." I'm saying that's why when I suggested that Rachel work on something and we'll put it to critical analysis ourselves and you'll be able to say why it is or why it does or don't make sense.

**Commissioner Martin:** I think this is an issue that we should make certain that we find the research and give the best guesstimate we can, and then the commission as a body decide whether or not that's something we're willing to tackle politically and operationally.

**Commissioner Petit:** Toyota, General Motors, all of them, the number of deaths associated with all of them on the front page, 10, 20, 30, 40, 50 kinds of deaths. Not hundreds, not thousands, not tens of thousands, as we have with the University of Rhode Island study that said 90,000 kids over a 30-year period. Is it not true? If it's true, then it needs to go into the mix.

**Ms. Cooper:** So it sounds like that's a major question and area of study to be added to the follow-up work, based on this conversation.

Is there anything more about how you'd like to operationalize the information gathering and the response to the questions? Do you want to take that back into your subcommittee and work it that way, and do you want to talk about a timeline for revisiting the conversation in a similar format or thinking about another way of laying out sort of the next steps?

**Chairman Sanders:** Actually, so we're -- we've saved a lot of time because this was to go into the afternoon, and I think it would be fair for us to give just a summary of what we've heard and to identify some of the next steps to make sure that we are on the same page.

And then we'll also end up changing a bit of this afternoon's agenda. So I can talk about that. But in -- this is really for consideration. This is where I heard us.

Actually, before that, Commissioner Horn, do you have a comment?

**Commissioner Horn:** I just wanted to make a comment on the issue of whether we come up with a number or not or sort of a range.



Let me make two things that may seem a little contradictory. I don't really care about the politics.

What I care about is whether or not we can say something with certainty or with some degree of certainty that is helpful, and I'm not yet prepared to say that the answer to the second part is yes.

So I just wanted to -- I want to go on record saying I really don't care what the politics are, whether it's politically or not politically a good idea for this commission to put more of a range on what the true number of incidents is.

At the same time, I am -- nor am I convinced that we are at a point where -- I don't care if there's two journal articles. I'm not so sure, not even having seen those articles, whether I want to base the reputation of the commission on two journal articles not seen.

And so I just want to put a caution here.

**Commissioner Petit:** This is Michael. Wade, I agree with you. I think it deserves a look, and there were three peer-reviewed articles, not two, but there have been others since then. And I thought the way that Rachel framed it is the right thing. We need to take a look at what's out there and say that in our best estimate, more so than any other group that exists, because no other group does exist, we're the group that exists, this is what we think the parameters of the problem are.

There's something like this and we know we need better data collection in the future to be more precise, but for the time being here's what we're talking about. We don't want to overstate it, we don't want to understate it. It looks like this.

**Commissioner Horn:** All I'm saying is I'm not prepared yet to say that I would support such a thing.

**Commissioner Petit:** That's fine. That's why we're having conversations and meetings, right, and if Rachel comes back with something, which I hope can be done fairly soon, we'll have an idea of what it is we're talking about for numbers and we can bat that around.

**Commissioner Horn:** I would also like -- I'd also like a little more clarity on what we know about who the perpetrators are.

**Chairman Sanders:** So let me -- Commissioner Horn, were you finished or did you have other comments? Commissioner Horn? So going back to --

**Commissioner Horn:** Did you ask a question?

**Chairman Sanders:** Yes, did you have anything else you were adding, or did you say that's it?

**Commissioner Horn:** No, I'm fine.

**Chairman Sanders:** Thank you.

So going back to the goal around providing direction and having consensus around the overarching recommendations, and to the extent possible, the specific ones, what I heard was generally we are headed in the right direction with a couple of large pieces that we need to consider and then some specific additions particularly. And this isn't intended to be exhaustive. We'll review things more closely and I'll suggest at the end how we might proceed.

But first, the consensus is contingent on the acknowledgment that we are not yet fully addressing the American Indian children and that's work that we will need to do jointly across committees.

And the second is I heard Commissioner Bevan comment that you completely disagree with every recommendation. And so I think what I heard was -

**Commissioner Bevan:** I didn't say every recommendation. I said -- you want to add to NCANDS but we don't know what's already been added to NCANDS or what was approved in 2012.

There are lots of questions here about what already exists that we don't know. And I just want to know the answers.

**Chairman Sanders:** So it's actually wanting more detail before you can come to -

**Commissioner Bevan:** I cannot say that I agree with anything until I know the detail. I don't know.

**Chairman Sanders:** So it's the detail. Great.

**Commissioner Bevan:** Right.

**Chairman Sanders:** So we need to discuss details, right.

So we really, then, have to -- so it gives us some direction around the recommendations that we've made and we will continue.

The additions that I heard, and again, this isn't meant to be exhaustive, but that under the purpose, we clearly identified one of the purposes is to identify the resources necessary to address the issue; that we -- a second is that we understand the opposition to the SIDS legislation better than -- at this point.

A third is strengthening the congressional oversight and recommendations related to congressional oversight.

Fourth is that we look at designating a federal agency when we talk about consolidation, and as part of that, also add a share of governance consistent with some of the federal advisory work that's occurred already.

And that we -- sixth is that we add more specificity related to the data collection. And finally, that we propose a process to identify a number and bring it back. Not necessarily that

we would do that, but that we have a process that we can talk about and decide whether we want to go forward or not.

**Commissioner Petit:** I had one thing, tangential but related, which I raised before, is it possible for you guys to look at a sample of five hundred or a thousand cases that you've done and just randomly select them and say, "These had a prior involvement, near fatalities look like this"?

If it's 1 percent, that's not going to be very helpful, but if it's 10, 20, 30, 40, 50 percent, it would be potentially helpful.

**Commissioner Covington:** Yeah, we can do that.

The other thing I heard, David, was to try to put some clarity in our recommendations around fatalities and near fatalities and maybe explore that further. What's the scope of that that we'd really have to be looking at.

**Commissioner Bevan:** I also want to understand about the standardization. I mean, we're standardizing autopsies. Standardizing and mandating uniform definitions of abuse and neglect, that's a big step that would violate in some ways the cultural confidence of stuff that we've put in.

How do we say that we're going to be culturally sensitive to it and then say at the same time we're going to standardize definitions.

**Commissioner Covington:** I guess I would encourage you to look at some of the work that -- the Air Force work because they did address a lot of that in their definitions.

**Commissioner Martin:** I think, Cassie, and I don't know, but I think what I'm hearing you say -- I had a conversation with David right after the Air Force testified, and I was completely opposed to the Air Force's position and approach because, I think I told Commissioner Sanders, that I didn't agree with their definition of abuse and neglect fatality. I really didn't.

When they were presenting, I was like what are they talking about? That's not even close to the way I would define it.

And I don't want to put words in Commissioner Sander's mouth, but the way I understood what he said to me was, if you can for a moment put aside whether or not you personally, Pat personally, agrees with the definition, if people utilize that as a working operational definition and they get consensus around that, does that help us? Think about it from that standpoint.

So the way I took it, and I don't know, Commissioner Sanders, if I'm saying this right, but the way I then started evaluating it -- and I actually took the time to reread some of the handouts we got from the Air Force and looked at the way they did their study and how they came to some consensus.

The thing that I was impressed about it, more so than their actual definition of abuse and neglect fatality, more so than that, what I was impressed by is they were able - people within

the interdisciplinary team, so the medical representative and the judiciary representative, whoever they had, both came to the same conclusion, based on this definition, not Pat's definition, but the Air Force definition, that it was and fits in to abuse and neglect fatality.

Also, the Air Force in Kentucky and the Air Force in Chicago both came to the consensus.

And to me, the issue about whether or not I personally agree with the definition is secondary as opposed to if we can find a way that all of us or the majority of us can have the same outcome, that improves counting.

When you talk to me about my personal definition, that goes into what I do on the bench every day. But if we're talking about a federal higher level trying to find the best number, which is the most kids that we can include in that, because we want to have the most deaths counted, then I do think it's appropriate to put aside Pat's personal impression of that objective definition.

But if we can all agree to use that definition and we get to the same -- after testing it and finding out and doing research to see whether or not it provides consistent outcomes, that gives us a better count.

So that's the way I reread the Air Force testimony completely. Based on my understanding that way, I approve it.

But if you tell me that that's the definition of abuse and neglect, I will tell you absolutely not. I think in my mind, at least, it came out -- particularly what Teri talked about today, that's not the definition that you necessarily use in the state court or determine whether or not there's a criminal prosecution that the state should prosecute, but it's talking about the higher regulatory federal number that we're trying to get at.

I don't know if that's quite what you said, but that's kind of how I interpreted what you said.

**Chairman Sanders:** We talked about, and the memo that I sent out earlier just talked about some of this, it seems we should bring back in our Oregon discussion and consider some of these, because they will require more of an immediate response.

Others we can consider. I think you talked, Pat, about some of the themes that we'll need to consider. And some of those can wait as we hear from other subcommittees.

But it seems that some of these we'll need to bring back. Like proposing the process for a number of the -- some of these are probably things we can do fairly easily, the strengthen congressional oversight, those kinds of things.

So I think if it's just referred back to us, we will certainly bring them back here, some in the Oregon meeting and some after that. And particularly as we're hearing from other subcommittees, I think it'll give us a sense of what things are themes that cut across subcommittees that we'll need to put together at a later date.

**Dr. Berger:** Cathy Palm just actually emailed something to me about the clarity of fatal versus nonfatal. She made two important points. One is you have to remember that the near

fatal case, they later die, they're actually included in both counts sometimes, because they were initially near fatal but then they die from their injuries. So you need to make sure you don't double count. But far more like -

**Commissioner Martin:** That would happen at a different time. So the near fatal will happen this year.

**Dr. Berger:** But in case the death review team reviewed the fatality and they go back and say, "Oh, there's a near fatal," but actually it's same injury.

But the other point she made is it's far more likely you'll find somebody in the family that had a near fatal and then there's a fatality in another child is probably more likely that a near fatal followed by a fatal in this same child.

**Commissioner Covington:** Is that in the research, because I don't know if that's in the -

**Dr. Berger:** She was saying if you look at the data from Pennsylvania, where we have near fatal and fatal. So I think that we could look at child death review. I don't know that we have enough near fatal in Pennsylvania yet, because that's just a fairly new mandate.

**Commissioner Covington:** But the one state, Wyoming, is required to review fatal and near fatal. It would be interesting to -

**Dr. Berger:** We could look. That's a good example.

**Commissioner Petit:** But that's the country's smallest population.

**Commissioner Covington:** I know, super tiny numbers. I think Oklahoma also looks at fatals and near fatals. We might want to look there and see what they found.

**Commissioner Petit:** David, when is the -- this session has been very useful, I think.

When is the confidentiality one?

**Chairman Sanders:** Not today.

**Commissioner Petit:** I know, I don't see it on here. I'm just wondering when it is.

**Chairman Sanders:** We can set it at a point that we have something further to consider. It seems like it would be helpful to have heard both the CPS as well as - at least a work plan because that'll give us a sense of where we want to go with the confidentiality discussion.

**Commissioner Covington:** I think that's a really good example of how recommendations can interweave together. Because there are -- some states are having real confidentiality problems doing good child death reviews.

There's one state where CPS will not even give their mandated child death review teams any information from CPS.

Then we also hear that from the Department of Defense in doing their child death reviews, they can't get information from the civilian world. So there's some implications there as well.

**Commissioner Martin:** The reality, though, is these are individual personalities and locations that are reading and interpreting HIPPA, reading and interpreting state law.

And you know, if I owned the world, someone would go around and do a dog and pony show to everyone and explain what the federal law is and incorporate the state law so we can get on the same page about these things.

**Commissioner Petit:** Well, on the 27th of January there is a report that's going to be released that basically speaks to that, and that's by our friends at -- what's the name of the organization? They've been doing reports the last few years in terms of the confidentiality, transparency, opaqueness of state laws. And one of the things we said in the beginning is that it needs to be more transparent. Well, I don't want to have a conversation about that.

**Commissioner Covington:** What committee is looking at confidentiality?

**Commissioner Martin:** Well, it's not a sole committee. It's not an isolated committee; I don't know.

**Commissioner Covington:** Is anybody taking it out as an issue, confidentiality, or are we just bringing it across the different committees?

**Chairman Sanders:** We should probably hear the themes as they're covered between now and tomorrow and then revisit that because we may need to establish some separate process or it may be that some of the subcommittees -

**Commissioner Petit:** Yeah, for a while I thought that we actually were looking at it.

**Ms. Cooper:** The policy subcommittee has done some looking at existing laws with regard to that and there's a summary we can circulate this week.

Commissioner Horn asked about a new effort at HHS called the interoperability initiative, and as part of that department wide initiative and really administration wide, led by OMB, they developed a confidentiality tool kit. And there's a section for all the health and human service areas.

So there's a child welfare tool kit for states and local practitioners around confidentiality and how, in today's AF data and big data and interoperability how HHS recommends they implement HIPPA and all these other confidentiality statutes.

So it's a fairly robust tool kit that's been on the street since August. And I know the policy subcommittee has recommended for the Oregon meeting that HHS officials come and present; and this would be, for instance, a line of questioning to them, how are state TA needs being met around confidentiality.

There has been, part of that, nested within the policies.

**Commissioner Covington:** It's a major issue at the Department of Defense subcommittee.

**Ms. Cooper:** It's come up with the public health and house subcommittee to meet with Medicaid and public health folks around streamlining.

**Commissioner Petit:** But we still have 50 states that have their own body of law that governs this question, and it ranges from completely transparent to virtually untransparent at all.

And so there is a group, and I think it's the group that's testifying, that's releasing this on the Hill on the 27th, that actually monitors what the state laws look like on that. And that's something that if we haven't taken a look at it, we should take a look at that.

**Dr. Berger:** Cassie, so here's the answer about that. NCANDS is in the renewal process now. There are no new fields being proposed, so the NCANDS data form that I actually emailed to everybody before the research roundtable, and I can give you, we have both the up-to-date child file and the aggregate file.

The last fields that were added were the prior time, and that's when they added report time, investigation start time, the actual date of the death, which had not been there before, the date the child leaves foster care. And then there's two things about the number of children eligible for early intervention services.

That was added in the last cycle but there are no new fields being added now. So the current is what we have.

**Commissioner Petit:** We can look at that and see whether or not -

**Dr. Berger:** I can resend it if you don't have it. We sent it out before the December research roundtable.

**Chairman Sanders:** You had said something but you didn't have your mike -- I think your last comment, nobody heard it on the phone.

**Ms. Cooper:** About the confidentiality tool kit?

So the Department of Health and Human Services is running a department-wide initiative called The Interoperability Initiative, and this grows from a lot of work led throughout the Administration across agencies.

But as part of the HHS Interoperability Initiative, there is a new tool kit called The Administration for Children and Family Confidentiality Tool Kit, and that was issued in August, so it's available to all states, and it addresses -- it is geared to help states go forward in their programming and it gives guidance on how they should interpret and operationalize confidentiality statutes.

So it really takes an inventory of all existing statutes that are relevant for their confidentiality, information sharing and such, and it provides a lot of examples. It provides examples of MOUs and examples of how states are doing this.

We have a summary of that. We'll circulate that this week. And I guess the additional comment was that there's been some additional work going on within the policy subcommittee around looking at this issue.

And related to Commissioner Petit, there's organizations that continue to do work and publish on this.

**Commissioner Petit:** But the inventory of laws that you're talking about is federal law?

**Ms. Cooper:** It is federal only.

**Commissioner Petit:** (inaudible) majority of state laws.

**Ms. Cooper:** It is federal only.

**Commissioner Petit:** And the state laws, I don't know if they're trumped by federal law.

Somebody would have to invoke trumping. And that's not something that we've seen, but the fact is that the states have their own body of law in this and some of them are very opaque. We just can't get into anything, even after a kid has died and somebody's been convicted and sent to prison.

There is a group that monitors that and that's what that release is going to be on the 27th. The first report is, "Secrets that Kill." I don't know what they're calling it now, but it's along that line.

**Ms. Cooper:** Their report is called, "Shame On U.S.," or, "Shame On Us."

**Commissioner Covington:** Nice friendly tone.

**Chairman Sanders:** So if we have captured at least the general direction from the Commission, we're concluded with our set of recommendations for now.

**Commissioner Martin:** The only question I have, and not to hurry your subcommittee, but so you have some general consensus of the concerns or questions and further information the Commission wants.

When do you anticipate coming back with some response to those?

And the only reason I'm asking, I want to get some sense of when each subcommittee's going to come back. Are you going to take two months, are you going to take six months? You know what I mean.

**Chairman Sanders:** We will come back with some additional detail in the next meeting.

And then -- and we'll identify which things can wait. Because there will be some things that we'll need to wait to hear from other subcommittees and which things we can begin to act on and which things will require more conversation. We'll set aside time in the next meeting for that to happen.



**Commissioner Martin:** Thank you.

**Chairman Sanders:** And we'll hopefully hear more today and tomorrow about what have been some of the other -- what are some of the other subcommittees that are really ready to move into a fuller set of recommendations.

**Commissioner Martin:** So it's kind of when you're ready, when you have your things ready or when it connects -

**Chairman Sanders:** We'll get to a point where it's more than readiness, since we have a date for a report to deal with. But at this point we're really wanting to make sure we have -- that the subcommittees are in a position to make recommendations that will be impactful.

**Commissioner Martin:** That brings me up to another point. I think I'm getting a little anxious, like what day are we projecting that we're going to put a report together and have a report together?

**Chairman Sanders:** Well, if -- we, actually, in the work plan have included an outline for what the report would like. And we'll begin to hear some of that as we hear where the subcommittees have prioritized. And then we'll be able to identify I think more specifically if we're in agreement as a commission, because we want to make sure that it is, again, a comprehensive, cohesive set of recommendations, that we're on the same page as the Commission.

If we are, it'll be much quicker. If not, then we'll have to have considerable debate about where our disagreements are. So we should have a better idea by the end of tomorrow.

We're going to make some changes in the agenda for this afternoon. We are early so we can take a break for lunch now and we'll reconvene at 1:15.

At 1:15, the American Indian subcommittee will present. At 2:15, as on the agenda, it'll be the CPS subcommittee, and we'll take that as long as necessary. And then we'll, after that, we will either adjourn early or perhaps we can do an update on our conversation about disproportionality. Policy will move to tomorrow.

So we'll take a break. So for those on the phone we're going to break until 1:15 and then reconvene with the discussion of the subcommittee on American Indian and Alaska native children.

**(Break was taken.)**

**Chairman Sanders:** Good afternoon, we are going to get started in just a minute. We have a couple of commissioners who have come down ill and so may or may not be able to join us this afternoon. We have several that are joining us by phone again as the afternoon goes on.

But we're going to get started with our discussion of the draft recommendations or draft work plan for the American Indian and Alaska native subcommittee. So I'll turn it over to Commissioners Zimmerman and Martin.

**Commissioner Martin:** Good afternoon, everyone.

So preliminarily what we'd like to say is that what you have before us and what is deemed to be a draft form is really kind of a summary of the literature and the testimony we've heard thus far regarding Native American communities and children.

We do want to remind you that in March we will be coming back to Arizona with a full agenda of Native American testimony or testimony about Native Americans. You will be hearing from both of us, a little information about some preliminary, preliminary, if that's possible, recommendations based on this information.

And we'll start by saying that a lot of the recommendations that we've talked about this morning have really dovetailed or we dovetailed very well into those. So hopefully we won't repeat ourselves but here we go.

**Commissioner Zimmerman:** So I guess I want to preface that the importance for Indian country is a -- potentially thinking about the American Indian, the 0 to 3 population that's most at risk for all children across racial representation, but the birth rate for

Native American, that includes Alaska natives and Native Americans in the lower 48, is 63 times higher than all of U.S. races combined, the birth rate.

So we're a particularly young population. So we're a very young population and we're growing at rates that far exceed the rest of the nation.

But the death rates are 43 percent higher than those of whites for native children. And of all of the minority groups, American Indians represent -- have the highest mortality rate, native youth do.

So I wanted to preface this around that bit of information, but also letting you know that the information and the recommendations that we're going to focus on are going to look at the best practices and the worst.

Some are data collection recommendations, some are looking at trends and risk factors, which I think we've all talked about this morning, and what do we count, what's documented, what isn't.

And then some methodology for prioritizing abuse and neglect and the services that families receive.

This comes out of support from the AOG report and from -- the GAO report and "A Nation Shamed," the recommendations pertaining to Indian country that we're continuing to review.

Let's turn to the second page and look at and focus on the subcommittee work. And I think I'm going to let Pat talk about the jurisdictions' portion, number 1, and then I'll talk about data collection.

**Commissioner Martin:** So I think I got educated when I was put on this commission, because I certainly didn't appreciate the complexity of jurisdictional issues in Indian country.

And it's not just the sovereignty of Indian nations and the federal government, but there are jurisdictional issues on local levels and state court versus tribal courts.

We had the privilege -- we, Marilyn and I, had the privilege of speaking with Dr. Goldberg, the vice-chancellor, I think that's the proper term, but she's an expert on Indian country jurisdictional issues.

And what I was asking for, whether there is a general rule, a bottom line, for instance, when it is an underlying criminal investigation, does that automatically go to the FBI or does it still stay with the Bureau of Internal Affairs, Indian Affairs, and she said there really is no bottom line about jurisdictional issues.

Because I was anticipating that we could look at what does happen and see whether or not we can make any improvements on deciding jurisdiction. She's also indicated to us that about 20 states have MOUs with tribal country reservations, about -- the way I equate it is like the reauthorization of VAWA.

So if everyone is on the Indian reservation, the Indian country will probably take the lead on the investigation. If the perpetrator is not a member of the tribe and not living on the reservation, then it will likely go to the state court.

One of the things she said is oftentimes, depending on the resources in the territory, they will still defer to the state court, even if they feel that they have the better jurisdictional grounds simply because of lack of resources.

So the issue really is whether or not there's any common ground we can lap onto for jurisdictional purposes, and the reason we think that's important, we can get more consistency in our count, and the more consistency in our count, the better the count would be, in our opinion.

So right now we are still struggling with jurisdictional issues. We are talking to experts in this area, trying to see whether or not there's any way that we can narrow down and make some kind of recommendation that will afford us a better opportunity to get consistent numbers when we talk about our native children.

So the bottom line on that one is that jurisdiction is a quagmire that I don't think that we've tackled, we haven't come to a real conclusion about.

I do think the one thing that we've come to a conclusion about -- and I will tell you, again, I learned this by working with Marilyn, is that my initial thought was err on the side of putting it with the Native country.

One, because I wanted to make certain that, you know, I've heard war stories, when a kid dies, they take the body off of the reservation to do the autopsy and how that hinders investigations because the Native people are reluctant to then come in and give information.

So my thought was to keep it with the Native community. And now that I hear about the lack of resources, but the inconsistency of resources across tribal communities, I'm really beginning to wonder if this isn't more important than I initially thought.

So the bottom line is we're still working on it. If you have any ideas -- we hope to have testimony on that next March, but we're also, in the interim, talking to experts across the nation about jurisdictional issues.

**Commissioner Petit:** Marilyn, maybe you know this, but when are the jurisdictional issues the sharpest? Does this apply equally to on and off reservation children?

**Commissioner Zimmerman:** So I guess the only way that I can try to explain it is, the answer to the question is it depends, and it depends on if the tribe is in a 280 state where the state has jurisdiction over criminal investigation and prosecution, whether or not the tribe has 638ed, which means they're receiving funding directly from the federal government to provide tribal law enforcement and child welfare, and all of those agencies are funded directly to the tribe. Or if they're using the Bureau of Indian Affairs, contract with the Bureau of Indian Affairs, to provide investigation and services, and where does the jurisdiction then go?

If it's a capital case, tribes have very limited -- per federal law, they have limited capacity to sentence for a capital crime. So many tribes have elected to give that over to the state.

So for some reservations if a child dies of a murder or there's a sexual abuse case, the BIA may initially begin the investigation, and if the BIA can come up with enough evidence, then they hand that over to a U.S. attorney. But those cases can languish in those systems for two and a half years and the families don't hear back.

They have tried to create a mechanism through the Bureau of Indian Affairs to create tribal victim advocates, so they're hiring tribal members but paid through -- that are housed with the FBI and paid through a federal system through the FBI. But often there's a lack of those folks, a lack of ability to hire and maintain because the work is so overwhelming for them sometimes, and/or they have a multitude of disciplines that they are educated under.

I know of a couple that have MBAs and they're providing the support services, and luckily, they're psychologically minded so they know how to do that.

But the answer is it depends. It depends on where, and I think -- I don't know if I've heard you coin it, but there is this question of geographic justice. And Pat and I talk about that a lot, is what kind of justice can we get for an urban black kid or rural reservation native kid that looks the same as it does in a middle class community for a white kid.

And because it's -- because of the resources and capacity that just doesn't exist. And then as she described, the quagmire of jurisdictions that serve those kids. It makes it much more

difficult to provide a good investigation or provide good supportive services because sometimes they just don't exist.

Was that what you were looking for?

**Commissioner Petit:** Yes, but just one other thing on it. Is there a difference in jurisdiction when a child isn't killed? That is when there's just abuse and neglect that's going on, there hasn't been a death. I can understand turning to -

**Commissioner Zimmerman:** No, It's the same quagmire. It depends on, again, a 280 state, tribal jurisdiction, what that looks like. But most often when it's a child fatality in an Indian country and small rural tribal communities, it's often taken to a higher level, just because of the ability of the state or the federal government to be able to impose stricter sentencing.

**Chairman Sanders:** Commissioner Zimmerman, or Commissioner Martin, have there been anything that we can learn, not necessarily from child fatalities or child abuse and neglect, but anything that we can learn about jurisdictional issues and the best way that they've been resolved from other practices and healthcare or law enforcement or anything that might be of value that you've seen, either recommendations or actually something implemented.

**Commissioner Zimmerman:** The recommendations that I'm aware of that have come through the Tribal Law and Order Act, through the reauthorization of VAWA, and through the Attorney General's American Indian Alaskan Native Defending Childhood Report, which is called "Ending Violence So Children Can Thrive."

The recommendations are very much about building local capacity and providing and empowering tribes to be able to provide that investigative authority and the investigative skills so that when a child dies, they are -- again, there is no geographic justice. They are just, the families are receiving justice. I'm going to let Pat talk to it.

**Commissioner Martin:** I think that's why I mentioned the reauthorization of VAWA, because in the last reauthorization that's when there was a determination made by Congress that if in fact the perpetrator is off the reservation, it still can be handled by the tribal court and on the reservation.

One of the recommendations or one of the three preliminary recommendations we're going to start talking with the Commission about is similar to looking at an interdenomination -- not denomination -- interdisciplinary, I'm sorry, kind of investigatory team on native communities.

And what that looks like is going to depend on where we can funnel the funding, but the idea is to make certain that we take members of the community to train in particular ways to get a better investigation.

As I mentioned before, currently on many reservations today, if a child dies, the body is actually taken off of the reservation to do the autopsy and do the investigation, which goes directly counter to the culture of Native Americans.

And so do you want to finish this or do you want me to --

**Commissioner Zimmerman:** So I want to go back to the jurisdiction issue. The jurisdiction, if all of those reports outline it, is that -- and also dependent on who's the victim, okay, if it's a native kid, who's the perpetrator?

If it's a nonnative perpetrator, then they are prosecuted in a state court. If it is a native perpetrator, then it will go to federal court. And so what does that look like and how is justice meted out or how are the families supported after the fact is largely dependent on some of that jurisdictional, those jurisdictional issues, what they have access to.

I think the other piece is, in thinking about what is sustainable in tribal communities that Pat's talking about is, all right, it isn't enough to just provide or designate, but it has to be also housed in an agency that is consistent in Indian country, in rural reservation communities.

And that is, for rural reservation communities, it's the Bureau of Indian Affairs Law Enforcement and the Indian Health Service agencies because the Indian Health Service serves over 70 percent of rural, 70 to 90 percent of American Indian, Alaskan Native children in the nation.

But for urban Indians that's going to look a little bit different, and it's going to look different in the 280 states. So the recommendations aren't cut and dried, we can't just say this is where the investigation and/or the multidisciplinary child fatality review team should be housed. So we have to have that conversation with people representing Indian country, and that's what we're hoping for March.

The other piece is that it isn't just the autopsy, sending kids out, it's really - tribes are often left with the responsibility to pay for that autopsy and they don't have the funds to do that. So what do we do about that, and/or there might be a cultural bias against autopsies.

But if we can train somebody that declares a death a murder or a suicide as a result of child maltreatment, we are believing that should come from, but not exclusively, a medical examiner placed to serve those tribes.

For example, in New Mexico, there is a medical examiner that serves the New Mexico tribes, and he's somewhat centrally located and goes to those tribal communities and performs those examinations.

Then many of the -- I think they also have forensic investigators that know how to look at a scene of a death of a child, and be able to determine whether or not it was accidental, suicide, or a homicide.

**Commissioner Martin:** One of the other things that we just wanted to bring to the Commission's attention is that we have a couple other people we're going to speak to on the specific issue of jurisdiction.

There's a gentleman by the name of Judge Bill Thorne, who's a retired judge from the Utah appellate court who's done work both in state courts and tribal courts, and he's going to talk with us about jurisdictional issues as well so we can nail that down a bit tighter for the Commission and for ourselves.

One of the things that Marilyn and I have looked at is reading over the literature and hearing the testimony that we've heard thus far, if I can summarize it in really raw form, from what we understand, it seems that the best way of counting the majority of the kids is through a death review type process, an interdisciplinary process.

Most of Indian territories do not have a death review team on them. The Navajo have a death review team, but most of the Indian countries do not.

There's one tribe in, I forgot where, we'll have the notes somewhere, Tulalip, up Washington, north Washington. It's not a death review team, but it is an interdisciplinary team.

The idea is -- so when Commissioner Covington and Sanders talked about improving death reviews in Indian country, to get a death review or a death review like team, it's actually going in and establishing such, not just improving such.

The other thing that we've learned from the testimony and hearings and literature that we've received thus far is that generally it's better to have more than one source to get the numbers. And so for us the issue is how do we translate that into territory and Indian country?

So the thought is to include the cultural identity of the individual tribe, why don't we look at what's on the reservation currently.

There is the Indian health service providers on the territory, and what would it look like if in fact we found a training to allow a person from that bureau to then be trained specifically to do forensic investigations? What would it look like to do something like that?

And so that's kind of, if you will, trying to take the model that works in state courts, so the best that we have, and see whether we can implement that in Indian country.

I don't know what it would look like -- go ahead.

**Chairman Sanders:** I have a question. It seems from the -- what you presented so far, really starting with jurisdictional issues and then talking about this, one of the questions would be do we look at a separate set of recommendations for American Indian children and not necessarily start with the assumption that the broader recommendations will apply.

Particularly since jurisdiction is not an issue for the broader recommendations, just as one component.

**Commissioner Martin:** So not to cop an excuse, because certainly we want to let you know that we've been working on and talking about this and trying to put it into what we know now, but remember, most of our stuff is going to come in March.

So we're trying to put together and think about what we've talked about thus far and include it in what we think in Indian country.

It's clear, that from the people we've spoken to thus far, the major problems are jurisdiction and data. Not only collection of data, but -- and because there's no real, there's no NCANDS

for Indian country right now. There's no comparable, even voluntary, you know, counting of kids' deaths right now in Indian country.

So the idea of trying to just find consistent themes throughout, consistent entities, agencies, bureaus throughout the different reservations is somewhat challenging. Because each of the reservations and each tribe has a completely different cultural history.

And so right now all we can do is have a conversation about what we know from the testimony and what Marilyn knows historically right now.

And I think that's why we've jumped onto this bandwagon about what we've heard thus far from interdisciplinary meetings.

But we're hoping that we get more recommendations and we're hoping that the people who we're talking to in the next few months will give us better ideas. Because right now, I mean -

**Commissioner Zimmerman:** Well, I think -- first of all, I'd like to say both yes and no to your question, David. It's like yes, I really do believe there should be a specific section that just addresses American Indian Alaskan Native issues across the board.

But the other is I don't want tribal nations to be relegated to one small section, but also be embedded in any of the other recommendations. As I said earlier, it's like we can't just talk federal agencies and state agencies, we have to talk tribal agencies and those federal systems that serve tribal -- serves American Indian children. So yes and no.

The data collection issue becomes a quagmire, too, depending on who's at the table. Multidisciplinary teams exist in tribal communities across the United States. But we still don't know who's counting what.

And some of the work that, and testimony that I've heard and the interviews that I've done look at, for example, the Bureau of Indian Affairs' Child Welfare System in some regions is not necessarily focused on maltreatment or substantiating. It's focused on the management of individualized Indian monies and how to pay out to foster parents or kinship placements or to get the child services that aren't available to them on the reservation.

So where do we begin?

**Commissioner Martin:** And some of them that have a criminal component are then recorded by the FBI so they don't even go to the Bureau of Indian Affairs.

**Chairman Sanders:** Just a follow-up. Thanks for both of your responses to my question.

The one thing I wonder about is in some ways we're starting from the -- some of the constraints at the federal level, around data and the measurement, and so forth.

And you've brought to our attention, and I know we'll get a chance to see the Salt River Pima Maricopa tribe and the work that they've done here, and it seems that that may be a better starting point.



I guess that's the kind of thing I wonder about, if it is building capacity at the local level and really thinking about it from that perspective because of the sovereignty versus making the assumption that there's a strong centralized federal government that really has to oversee the process.

**Commissioner Zimmerman:** So as a part of that section, specifically for American Indian Alaskan Natives, I think one of the recommendations that we are kicking around is we've got to begin somewhere because we don't know where to begin.

And so thinking about how do we pilot a death review team in Indian country that looks at some of the issues, that looks at jurisdiction. So piloting in an urban setting, piloting in a 280 state, piloting in an Alaskan Native community, piloting for northern plains, piloting for Southwest.

Trying to think about all of the ways that children live under different jurisdictions and what that means as far as counting their fatalities or what services they are able to access or not able to access.

**Commissioner Martin:** David, I think I understand and appreciate your comment, and if I can resay it in a way that I think I understand it.

Since we're going to see what's in Yuma and here in Arizona in March, kind of hold off on any kind of real recommendation until we see whether or not there's some other recommendations that might be brought to us directly from Indian country. And I appreciate that tremendously.

I think what Marilyn and I have done thus far is we've looked at the GAO report, and their conclusion is that there needs to be an interdisciplinary team not only in the federal -- in the military branches in the nation, but also in Indian nations, for abuse and neglect fatalities.

And also on a state level, they recommended that there needs to be kind of an interdisciplinary death review team for Indian nations. So what we were trying to do is take what we had thus far and talk preliminarily about fitting it into there.

I don't think that that precludes us, and one of the reasons we're reaching out to other experts and trying to bring everyone back here in March, so that if there are better recommendations that are coming from, directly from Indian country, we can start grasping onto those.

But we're trying to fit into what the literature is and the testimony is thus far and from the GAO report.

I think that's why we keep calling it preliminary/preliminary. Because I don't think we're ready to say, "This is what Marilyn and Pat think is the best thing right now." This is just where we are right now.

But I do think that we're prepared to say that some of our problems -- not problems, but some of the issues that we think are germane to figuring this out for native country is a jurisdictional issue.

There has to be some kind of recommendation around jurisdiction. There has to be some recommendation about consistent counting, and that's what we're trying to focus on, those two major issues.

So preliminarily we're setting up March, our day in March, half of it for jurisdiction and half of it for data. And you'll kind of see those are the major issues we're trying to work around.

And we think once we can find preliminary answers to those kind of issues, we'll be able to make concrete recommendations. Is that a fair statement?

**Commissioner Zimmerman:** That is a fair statement.

The other issue I think that's really relevant to understanding Indian country, and I'll talk from the experiences of people that I've talked to and my own personal experience, is that data in Indian country is a delicate conversation for a multitude of reasons, as I described earlier.

But one of the key issues is that we have many tribes who are working with state agencies, and state agencies write their block grants and apply for funding using data from Indian country. Using that data to up the importance of the need or to be able to express that need, but they don't invite the tribes to the table. And the money never gets to the tribal community.

And so that's just a minor universal experience for many tribes across this nation.

What the other piece is that, again, there is a very -- there still exists a lot of pathologizing of American Indian tribes in tribal communities. There's a pathologizing of behavior, of a violence, of poverty, and now there's almost a pathologizing of the epidemic of suicide among the native youth.

So when we think about data, we've got to think about what's the context for tribal communities. What is it that we need to, as you guys described this morning with just managing and count -- how do you count? How do we think about respectfully engaging tribal communities to say, "This is how it'll benefit you."

Because we don't know, because the data systems don't exist. So we don't know how many of our children are dying and what they're dying from, unless of course it's a suicide epidemic that they are engaged in.

So we need to know, because we can't either use or develop interventions that will reduce child fatalities in Indian country because we really don't know what those issues are.

**Commissioner Martin:** Some of the literature we've been able to be privy to, it also talks about issues of data about native countries are very sensitive to who owns the data, coming into the territory and taking their data and utilizing it for state purposes or federal purposes, requiring sovereign jurisdictions to report data to state and federal agencies.

So these are a lot of issues that Marilyn and I have started talking about, and I don't pretend to tell you we have the answers, but these are issues that we're talking around the data.

The other issue that I didn't realize was so major is this whole issue of intergenerational trauma in Indian country.

So when you talk about an adolescent suicide and you start trying to pinpoint the reason for that, whether it's abuse and neglect, and the suicide and trauma -- I'm sorry, the trauma that the parents are experiencing and then parenting the child who then ultimately commits suicide, how that's registered, how that's counted, what does that look like. Is that considered abuse and neglect?

In the literature a lot of that comes out. Those are some of the issues we're struggling with, and those are some of the questions we have for the people we have lined up to talk with.

**Commissioner Zimmerman:** I was going to add something else -- I can't remember, so I apologize.

**Commissioner Martin:** Do you have any questions about the direction we're going into? If I had to put it in a real sweet and simple sentence, the things that we're focusing on primarily are jurisdictional issues and data, and data encompasses a lot of those issues that we told you about, we're questioning and we're asking people about.

**Commissioner Zimmerman:** So I think I recovered my thought.

So the issue around data collection also is how do we go into tribal communities and how do we make meaning of what we need for data? So it's not necessarily just here's a box, check it. It has to be looking at not just the family, but we have to look at the legacy of historical trauma and intergenerational trauma and do community assessments, not just individual or family assessments.

And then finally, I think the other part of my thought is that for Montana, on a death certificate, there is a little box that says, "American Indian, Alaskan Native," and it gets checked or it doesn't get checked. But even with a state that already has that box, we often talk about how we are born Native American but we die white and vice versa.

So it's like how do we hone that down a little bit, so that if a man leaves his reservation and dies in LA, he is still acknowledged in LA as being American Indian or Alaskan Native heritage.

**Chairman Sanders:** Commissioner Rodriguez?

**Commissioner Rodriguez:** I think I'm struggling to understand if the primary focus of the work group is on jurisdictional issues and data, I was really struck by -- I didn't realize that some of the child welfare functions on the tribes were limited to sort of fiscal or administrative tasks?

**Commissioner Zimmerman:** No, they do practice child welfare. It's how they collect their data.

**Commissioner Rodriguez:** How they collect their data, okay.

I think I'm still, though, thinking about sort of the need for prevention, intervention, addressing the intergenerational trauma and the resource issues that are involved in there.

Is the thought that this would be sort of step one that the subcommittee would tackle, and once there are recommendations in that area, then you would look at what are the supports that children and families actually need, and how are those the same and/or different, and the resource streams that are needed the same or different than sort of the broader subcommittee.

Or does that -- or does it seem like these are just so big that the other groups should be -- I don't want to lose it -- the other group should be taking on thinking about native issues as we're thinking about interventions and supports and -

**Commissioner Zimmerman:** One of the things that -- I think there's a report from the National Indian Child Welfare Association, from NICWA, that looks at, for example, CAPTA.

Tribes have only, since CAPTA's been in existence, only get about 1 percent of that funding, just because of the way that the funding is distributed and the barriers or the challenges that tribes have to meet the ability to be able to be funded. I can't think of the word -- qualifications, thank you.

So there's that. But it's a parallel conversation. So it is about -- so the reason I mentioned CAPTA is that's where funding exists for prevention and early intervention. Rather than just investigation substantiation.

So there's this parallel conversation that we have to have in Indian country and why I think it has to be embedded in the conversation around what is child welfare, as I think Commissioner Dreyfus describes very well, that it isn't just up to CPS, it's up to schools and law enforcement and everyone, right.

So that's that parallel conversation that we have to have, and why it has to be part of the greater report that American Indian and Alaskan Native youth are counted in child welfare practices, prevention, early intervention, not just the counting.

But to get to the counting we had to think about jurisdictions, because, again, how -- first, how do we identify American Indian or Alaskan youth or child, and then secondly, once we identify that child, how do we then -- where do we get the information about their death?

**Commissioner Rodriguez:** I don't think I framed my question clearly.

**Commissioner Martin:** Let me take a stab at it.

I think we are very much interested in the quality and quantity of services and interventions that are offered in territories and native country.

We've talked about even to the extent that intergenerational trauma has precluded - not precluded, but stigma has limited the ability of parents to really parent their children, and then it leads into this whole suicide thing, just as a generic way of looking at it.

So we've actually looked at some programs that are talking about parenting coaches that actually go in the home and help the parent learn how to parent; to take care of or to address their trauma so they're better prepared to take care of the child and better parent the child.

So we are talking about specific services that may be necessary, particularly for native country in general. But I think what Marilyn and I both realized is before we can really have a detailed conversation and a conversation that really gets into those issues, we have to deal with the jurisdictional and counting. Because right now, like Mike was talking about earlier, we might be able to have a range for state and federal numbers on kids other than native kids. We don't even have a range for native kids.

So I think what we're trying to do is deal with the biggest hurdles that we have to get us to a point where we can actually have a germane conversation about.

But we certainly and clearly realize that there's a necessity to look at interventions that would definitely go to prevention at some point.

**Commissioner Rodriguez:** My question was really about where the work would be. So as you're imaging it, the work will be in your subcommittee as opposed to the other subcommittees.

**Commissioner Martin:** To be honest with you, if we get there.

**Commissioner Rodriguez:** Got it.

**Commissioner Martin:** I don't want to sound like -- to be honest, if we get there. We're trying really hard to get there.

**Commissioner Zimmerman:** I think that's why we're truly looking at jurisdiction data collection, and then, okay, how do we think about accessing and finding that data and information, and that's where we came up with the recommendation for -- it's in number 4, "Establishing death investigation teams in tribal communities," because it's sort of accountability between agencies that serve kids, and then it's the ability to be unsilo'd and find services for the family. And it's about finding -- you know, looking at -- and as the Air Force, and declaring whether it was an accident or not due to neglect or abuse.

I think that that's a pretty darn good beginning to thinking about what we're commissioned to do as -- you know, with eliminating child abuse and neglect fatalities.

For me, it really is about community intervention and prevention, but let's not totally eliminate that from the conversation. Let's keep that as part of the greater conversation across the Commission.

But for Indian country we've got to begin with these three specific areas: Jurisdiction, data collection, and death review teams so that we can even get to starting to count; counting, and then talk about where to house the count.

**Chairman Sanders:** Commissioner Dreyfus has a question and then Commissioner Petit.

**Commissioner Dreyfus:** I want to interface back to Teri's earlier presentation and then this one. I really appreciate the conversation.

I know that recently, and I can't remember the name of the Act, there was I think the Strengthening Foster Connections Act or something like that that it was called. It really was kind of giving more of a go ahead for tribes to be able to take on their own child welfare work under 4E.

So my question is twofold. Is there any way that we could make a recommendation that at least in those tribes who are doing that, that there are certain aspects to this issue that they must be making part of their capacity as tribes are taking on responsibility. I know that's not all, some, but it might be a beginning.

The second thing it made me think about, back to Teri's earlier points when Cassie - we don't even know what death review teams do, do they really work? What are the standards? What really works?

Is there any way that a recommendation could be made that we believe that there is enough that we know around death review teams around the country, for there to be some body of work that gets done after our work that looks at that and at least identifies the minimum for - of quality standards that must be in place for all death review teams?

I appreciate that they're all a little bit different and they all still kind of get to the same point, but is there any way for us to do that so anyone that is receiving Title 4E, be it a tribe or be it a state, has to at least meet the minimum for a standard of what a quality death review team does.

**Commissioner Martin:** With respect to your first question, if I understand correctly, and I actually should know this since I went to the Hill to testify about the need for 4E funding going to the tribes.

I believe that tribes are still in the position that they have to apply for 4E funding, and I know states do, but it's kind of a given; if you send in your application, you get 4E funding for states. And some states are idiots and they don't apply, like Illinois, but if you apply, you basically get it.

Native countries, not every native country that applies actually gets 4E funding. Very few of the tribes who have applied have actually got 4E funding, and their funding is a lot less than the state funding.

It's like -- Teri's saying three. I didn't realize it's three.

**Commissioner Dreyfus:** But my point is, no matter how small it is, it's a laboratory.

**Commissioner Martin:** I agree with you.

**Commissioner Dreyfus:** It's a laboratory, and I'm just saying is there a connection that could be made that if you are going to be receiving Title 4E, and it's equitable to being a tribe or being a state, that one, death review teams are required, and, two, could there be something

that at least creates a minimum for standards that death review teams and entities that receive Title 4E have to meet.

**Commissioner Martin:** So I think Marilyn will talk about the standards.

But to go back to my point, Indian country is not just like a state. It's a sovereign entity. So I think that it would be appropriate that if three tribes are receiving 4E funding, to ask them to voluntarily present or offer their numbers.

But I think it's very hard to tell a sovereign entity, a sovereign government that they have to do and mandate that they do.

Now, yes, if they're receiving federal dollars, should we be able to ask of them? But look at what we do with the states right now with NCANDS. We give them oodles of dollars and we voluntarily accept what they give us, and even if they don't give it to us, we then start guesstimating what their numbers are.

I'm not saying no. I'm saying that I think we have to consider the fact that it's a sovereign entity and not just a state. But then Marilyn will talk to you about addressing the issue of standards for death review teams.

**Commissioner Zimmerman:** Susan, thanks for the question. I agree that -- I do believe that we can have the same standards, but one of the key issues I think that we hear from Indian country is that states and tribes often don't work very well together.

And I think part of Teri's testimony in Vermont was about how things could be addressed to a really strong state and tribal partnerships.

So I would say if we want to link the quality of standards to the 4E funding, then I would also link the 4E funding to the quality of standards for the state, that they have to show authentic relationships with the tribal nation in their state; not just, you know, mark a box or say they have the agreement of a tribe just because they called somebody from a particular tribal agency who said they thought it was a great idea.

But that there is some sort of quality, standard quality, that really the states have to show true relationship and true partnership with the tribal nations that they serve. And

I don't know if that's again piloting, as you said, their laboratories -- let's do that. I'm fully for that.

**Commissioner Martin:** The one thing I forgot to mention --

**Chairman Sanders:** I think, Commissioner Petit, did you have a question?

**Commissioner Petit:** Question and comment. But the one thing you forgot to mention?

**Commissioner Martin:** Earlier, when we were talking about jurisdiction, there are about 20 states and tribes that have MOUs, but that still hasn't resolved the jurisdictional issue,

because oftentimes if the MOU requires that -- would dictate that the tribe take on the investigation.

If in fact their resources are such that they don't feel they can do it, or in fact, like Marilyn was talking about earlier in terms of the sentence for a criminal punishment, they will often defer to the state, even if the MOU would specify for the tribe to take the --

**Commissioner Zimmerman:** And we have to understand that 20 states doesn't mean - there's 566 unique federally recognized tribes in this nation. So the 20 states might be working with one tribal nation, not necessarily a consortium of their state tribes.

**Commissioner Petit:** And then you have 30 states without MOUs.

Well, if I could comment, this is, I think, very, very complicated. It's always been complicated, and the business about jurisdiction I think is way above our pay grade.

There are numerous issues involved with jurisdiction of which child welfare is one aspect of it.

And the business of -- we know the history and it's -- we see the legacy, and we, I mean I think most people agree something different has to happen on this thing.

But when you talk about a sovereign nation, then you get into the question of resources. And the resources in this particular case come from another sovereign nation or sovereign states.

And as I've dealt with them myself, including Indian issues with them, they're not going to respond, in my experience, to sentiment. They're going to respond at some point to numbers, and it's been difficult to put these numbers together. And that in part reflects the lack of trust that often exists among everybody.

But at some point, the ground -- somebody has to take a step that breaks that, right. So, for example, on child fatalities, 20 or 30 years after the passage of legislation, 24 years after the existence of NICWA, you'd think there would be some better data that says here's how many kids died, here's how many kids reported, here's how many kids are in care.

Absent some of that, I don't think -- we're going to have to be careful about how far you reach on this thing, absent the specifics, because I don't think people are going to respond to it.

Form follows function, right. I think that's true. In this case the form is the jurisdictional issues. The substantive content is beneath that. And what we care about is no kid, whatever the jurisdiction is, white, black, Indian, we don't want any kids killed.

So the question for me is how do we focus enough attention on this without us trying to resolve these jurisdictional issues which have been around for a hundred years and they're really complicated. I just don't see us making a big dent in that.

So the question is what can we influence in terms of what we have and what we can say?



And I'd be curious -- I even followed up. I guess Terry gave us a paper when he left, and there were a series of specifics in there. I don't know if you guys have looked at the specifics and have said, "This is good, this isn't," and so forth. Are we at that level yet of specificity in terms of your looking at that stuff?

**Commissioner Martin:** We reread Terry Stone's -- Terry Cross, we reread his recommendations, and part of it was this interdisciplinary approach to investigation. So

I don't know. I doubt if we will come up with a one liner for jurisdiction. If everybody did what we wanted them to do, jurisdiction would be solved by this one line.

What I do hope, though, that we can come up with is to take the majority of recommendations that we've heard, see whether or not we as a commission, as a body, feel that that would be an appropriate way to start approaching the jurisdictional issue.

And maybe our recommendation is limited to jurisdiction is so important that there should be specific attention focused on jurisdiction in native country for these reasons. Maybe that's our recommendation.

**Commissioner Petit:** But it would help if "these reasons" were data that described what the problem is. So Terry, one of the things he said was there's less abuse and neglect fatalities among the Indian community because -- he invoked or cited something culturally that said there's fewer killed. There may be more neglect because of poverty issues and so forth.

And then I don't know what the math looks like so I said, "Okay, let's say it's the same as the rest of the country. Let's say there's two per a hundred thousand." Are there one and a half million Indian children, are there that many?

**Commissioner Zimmerman:** American Indian children I think make up about either, between 1 and 2 percent of the entire U.S. population.

**Commissioner Petit:** Of children's population, so that gets you into the million range, literally there's about 75 million American children.

So if that was the case, there were ten units of a hundred thousand times two deaths per a hundred thousand, that's 20 or 30 kids killed a year.

Does that sound about right? I mean, Terry's a very smart guy. What can you conclude from what's out there? Have they given us -- you started the presentation by citing some statistics. Is that from Terry?

**Commissioner Zimmerman:** That is not from Terry. That's from an article in The American Law Review. I can't think of the author's name.

**Commissioner Petit:** I'd love to see that information or what BIA is gathering or what IHS is gathering or what NICWA is gathering.

**Commissioner Zimmerman:** I think for us and for the data collection again is that it's almost a jurisdiction collection of data, because BIA has their data, IHS has their data, FBI has their

data, tribes have their data, and how do we -- are they triply counting kids? Are they not counting kids at all? What kids are they counting? Why are they counting?

We don't know any of that. So we're hoping to get some of those answers between now and the March hearing from the federal agencies like BIA that serve children, or IHS.

But yeah, I think that the -- I would not question Terry Cross with his knowledge and his data, but what I would have to wonder is how do we know that that's ultimately true, that children aren't dying, because we're not counting. We don't know. We don't know what we don't know.

**Chairman Sanders:** The question that I have is related -- you mentioned the three priorities, jurisdiction, data, and death review teams, and it's the third that I was trying to get at earlier.

Because it seems that if we think of all of the issues, and particularly if we look at some of the things -- and I know Michael has talked about this idea of interdisciplinary review prior to a fatality. If we're looking at trying to prioritize three areas in moving forward with, is that one of the three, or should we focus on best practices consistent with some of the things that Jennifer said and what she had talked about, the notion of piloting, and maybe the piloting is before a fatality versus afterwards. Since there, again, seem to be some best practices out there that might be applicable.

**Commissioner Martin:** One of our -- one of my problems, and I shouldn't say ours because I haven't talked with Marilyn about this, but one of my problems is when we talk about best practices, that's not work that has been done on Native Americans. That's work that's been done on non-Native Americans.

**Chairman Sanders:** What I heard from Salt River suggested that they developed a best practice on their own, that is something we should explore further.

**Commissioner Martin:** You're absolutely right. I forgot about that.

**Commissioner Zimmerman:** When I think interventions, I don't think systems putting in different ways of doing practice of child welfare. I think like behavioral therapy or mental health interventions. And except for maybe two, the best practice, there's very little evidence that the models that have been developed for mental health issues can serve American Indian kids because they have been developed for western European white kids.

**Chairman Sanders:** So that's not what I was thinking of. I was thinking of the approach that was used by Salt River Pima.

The tribe we visited in Montana, it seems like there were some best practices there. So it seems like there are some things that have developed by tribes for themselves that could be applicable if we learned more about them and actually could be -- the work here, it seemed, was really developed based on fatalities and trying to reduce fatalities. So it seems like there's that that's out there. So I wasn't thinking of specific evidence-based practices.

**Commissioner Zimmerman:** But we're beginning -- there is some development around trauma informed practice for Indian country that's being developed through the national -- (inaudible) express network.

And that is a very broad term, trauma informed, for us because -- in the trauma network, because it's sometimes just establishing baseline practice for many rural, isolated rural communities.

And that's being able to, how do you do investigation, how do you substantiate, how do you find services, what's the case plan, what's the family group decision-making process for this tribe?

So there are those that are in their initial stages that are being developed in Indian country, but they are in the initial stages. But I would definitely support promoting those that work.

**Commissioner Rodriguez:** But even like, Commissioner Martin, you mentioned about the parenting coach model. I mean, that sounds like something that not only would be really impactful for native tribes, but also if we rolled it out, pilot it, it would probably have a lot of relevance for other communities where that's also an issue.

Because I think it's true that many of the interventions that we have available weren't actually developed with the population of children that actually end up dying in mind.

So I think there's much that we could learn from those kind of -- I think from the issues that you're talking about are just as relevant in east Oakland as they might be on a reservation, just the isolation and the poverty and the --

**Commissioner Martin:** With some amendments, so --

**Commissioner Rodriguez:** Sure.

**Commissioner Martin:** Like the parenting coaches, that's a great model, from what I can tell, but when you talk about it in native communities, it's imperative it be someone from that tribe, that community, go in and do the parenting coaching part; as opposed to, you know, on the south side of the city of Chicago, I have, Hispanic people going into black people's homes.

And maybe that is important and we just haven't recognized it. But they have recognized at least the importance of and the impairment of having a community -- not just an Indian person, not just a native person, but a native person from that community.

That's still like MST, multisystemic, whatever they call it, on JJ, juvenile justice, where they have teams of people going into the home to evaluate -- teams going in the home to evaluate the needs of a family, the therapeutic needs as well as parenting needs as well as substance abuse needs.

So those are kinds of programs that I think would be very helpful to address this intergenerational trauma, but with additions like making certain that the people who are guiding these principles are actually from the community and some of the other exceptions that we've heard about Native American communities.

**Commissioner Zimmerman:** I just want to state, too, as we're thinking about those sorts of interventions, I want to go back to Susan's comment earlier.

One of the things that we really have to do, I wasn't just talking about states, is if we want to create quality of standards, the tribes have to be at the table. And I don't know, you know, all 566, a recognized national agency like the National Congress of the American Indian, who comes to the table to say for us this has to be a part of the quality of standards. That may translate really well into nontribal community and be part of what we do across the nation for children.

**Commissioner Covington:** I had a couple of thoughts -- questions. One is when you're looking at data -- these are just some ideas for you because you have nothing more to do than -- have you looked at the federally funded maternal and child health epicenters for the tribes?

They might -- they've been in existence now probably ten years. We don't have them all over the country but we have some of them. I was on the board for the one for the Great Lakes. It's called Great Lakes Intertribal Epicenter. But I have a feeling that they've hashed through some of these data issues and they might have some suggestions.

**Commissioner Zimmerman:** They may have some really great suggestions, but again, there's that -- so Minnesota might have a great one because they are a 280 state.

**Commissioner Covington:** But the one, for example, the Great Lakes one is Minnesota, Michigan, Wisconsin. They're multi states.

**Commissioner Zimmerman:** We have our consortium in the Great Plains between Montana and Wyoming, but they have given over their data to the Indian Health Service, and when we contact the regional or Billings area service unit, we are then -- then we're pointed to Rockville to find out information. So that's that question of jurisdiction. Like, okay, we can talk with those folks, but then there's these other folks that are relating to their headquarters in Washington, D.C. for a federal agency.

**Commissioner Covington:** I'm thinking as a way of not necessarily to get the data but to think through some ways. We've been doing a lot of work around that.

The other thought I had is has anybody done an inventory or is there an inventory anywhere of federally funded programs in Indian country that are really geared towards supporting families and providing prevention services, because I think, you know, the new monies that are going just for the tribes' home visiting, those -

**Commissioner Zimmerman:** Tribal Garrett Lee Smith grantees, through SAMHSA. ACF has a lot of funding specific to tribes.

**Commissioner Covington:** I wonder if there's a way -- is there oversight and control of any of that, or is it just a smorgasbord?

**Commissioner Zimmerman:** They're all silo'd in their agencies.

So I know, for example, that juvenile justice has a coordinating council that invites all of the federal players to the table. And so they meet -- I'm not sure when they meet -- twice a year, but they have these kinds of conversations.

Maybe that's a place to start, too, is to think about how do we put this across the country. Because ultimately, tribes are engaged in conversations with the federal government because of that government-to-government relationship.

**Commissioner Covington:** I also think of places like North Dakota where the tribes really wanted home visiting and that was coming from the state, but the state governor decided he didn't want home visiting for political reasons so he refused the grant. But the tribe found a very creative way to backdoor it so they could get the funding for themselves. So now of course there's tribal home visiting.

I had one other thought -- was have you done any work yet talking with tribal child welfare offices that are inside of state child welfare? I know, for example, Michigan has a lead who is an Indian who really does a lot of outreach to, you know, the tribes that are in Michigan, through Michigan child welfare around jurisdictional issues and other things. And I'm just wondering if that might be a source for us to get some information.

**Commissioner Zimmerman:** I have had conversations with some state child welfare agencies that work with tribes pretty well, not really well. They have a designated employee who's specific for working with tribes. And it's hit and miss. It's we have a really great relationship, we don't have a good relationship.

And we've talked about, and there's -- they are still wrestling, I don't know what, since 1978, they are still wrestling with what it means to provide a reasonable response to NICWA -- or to ICWA, sorry, and whether or not they want to give tribal courts full faith and credit, as ICWA allows for, or placement in kinship or notification to the tribes about their child.

**Commissioner Petit:** Could we go as a commission formally created by the Congress, send a communication and leave a specific paper trail with IHS, BIA, NS, whoever is an appropriate voluntary private group like NICWA, and if there's anyone else -- you made reference to somebody -- but with respect to IHS and BIA, why can't we send something to them?

So we're not sending something to the other government, we're sending something to our own government in this particular instance that says, "What data do you have on?"

And let them come back and either say, "We have nothing, we have plenty, we're not answering." Let's get that recorded and captured in terms of those people who do have some responsibilities in this area.

And I can think of a few questions, and I'm sure you can think of a number of questions that we can just put before them and let them respond.

**Commissioner Zimmerman:** We are the commission, but again, the power to convene or the power to elicit a response, do we go directly to who?

**Commissioner Petit:** I'm saying whoever heads up IHS, whoever heads up BIA, whoever they work for, and say, "The commission exists, we were created for this purpose. You're a federal agency, you deal with this issue. We'd like to know how you're dealing with it. Please provide us this information."

And then let them say, "Don't bother us, we're too busy," or, "We're not going to answer," or they give us what we're looking for.

**Commissioner Zimmerman:** We plan to go in person to talk to them and then we're looking at thinking about how to invite them to come to Arizona in March.

**Commissioner Petit:** I think talking to them personally is fine, and it'd be great if they came here, but I'd like to see what they say on paper that is suitable for distribution to everybody else. So what is their written response to a series of specific questions that we have.

**Commissioner Zimmerman:** We will take that under advisement, Commissioner Petit.

**Commissioner Covington:** Just for clarification, are we meeting here again in March with the full commission?

**Commissioner Zimmerman:** Yes, in Scottsdale.

**Commissioner Covington:** Do you know the dates.

**Commissioner Zimmerman:** 25 and 26th of March, I believe.

**Chairman Sanders:** Your question to us was about the three priorities in the work and was there general support. And I wanted to go back to the jurisdiction issue because I think your last couple of responses, and thinking of what Commissioner Petit had said earlier, that this was very complex.

But what I'm hearing is that you're not necessarily trying to come up with a solution, but really saying let's test what the implications are of certain types of jurisdiction.

That may be an area that we want to look at further.

**Commissioner Zimmerman:** Yes.

**Chairman Sanders:** Does that get better at what you're asking?

**Commissioner Petit:** Yeah, I think personally the jurisdictional thing is beyond the ability of probably anybody to really figure out. The sovereignty is a big deal legally.

Legally it's a big deal and politically it's a big deal.

But something that goes directly to the question of Indian children at risk, how can they not be harmed, how can they be protected, how can they be stopped from dying, I think to the extent that we look at that, then the jurisdictional issue has to address it.

In other words, it then has to say, "You guys are recommending we deal with this and this and are we set up to do it." That's something that belongs to tribal leaders as well as top officials of the United States.

In other words, work backwards from the needs of the children. Here's what the kids need, here's what we think is required, whether it's resources, whether it's different jurisdictional modifications, but let them figure out -

**Commissioner Zimmerman:** From my perspective it feels like that's why we went to this investigative death review team's investigation. Then we go to where is that data, then we go to what's the jurisdiction, because that's how we get to the place where, depending on jurisdiction, will depend on a response.

The quality and standards of the response are going to be different for a state system than a tribal system versus the Bureau of Indian Affairs versus Indian Health Services, whatever the services are, but also what the jurisdiction means for those territories.

**Commissioner Martin:** I don't disagree, but I still think that if we're not going to address the jurisdictional issue and give a one-liner that this is jurisdiction, which I'm not convinced we can do, then I do think we have to provide that whoever retains jurisdiction on criminal cases has to somehow report or bring their data to Joe Blow and the tribes have to bring their data to Joe Blow.

But that's why I think that gets difficult, because these are sovereign entities, and I don't know if we can order them to do that.

**Commissioner Zimmerman:** I think we can invite them to do that, and that's where I go back to the piloting and thinking about, do you want to do this? This is an important issue, here's what we don't know, so are you willing to be a sovereign nation that begins to address how we address child fatalities in Indian country. What does that look like?

**Commissioner Covington:** How do you get through, though, the fact what I understand of Indian country is oftentimes they give the whole kit and caboodle over to the FBI when there's been a violent crime and then the FBI maintains complete jurisdiction over these cases. And then that is so closed you can't get through any of that.

**Commissioner Martin:** So I think we have to do one thing or the other. We have to either say that jurisdiction is so intricate and so hard and we can't do it with the resources we have right here, but because it's so important, we're letting the federal government know that that has to be resolved somewhere.

Or we have to find a way that -- where jurisdiction rests today and find all those spots.

FBI, BIA, you know, wherever, and then figure out a way to convince them that it's in their best interest to share their data.

**Commissioner Zimmerman:** I don't think it's a huge leap. I think there are many, many tribes that are positioned and are struggling with this issue even now, to think about how are we

going to support these families, what does that look like? Why did this child fall through the cracks? Why did he die in care? Why wasn't he placed with a relative on his own reservation?

We need to find out why that is. I think they're ready.

**Commissioner Martin:** So based on what Marilyn has said and the questions that have come up here, would the Commission then -- is the Commission of mind that that's the avenue we should pursue?

**Chairman Sanders:** We have, apparently, noise on the call. If I can remind people to mute with star six again so that noise isn't coming through. People are having trouble hearing.

Commissioner Martin, specifically the direction related to jurisdiction or jurisdiction as a direction? The conversation that we've just had specifically about jurisdiction or jurisdiction generally as the direction for this subcommittee.

**Commissioner Martin:** Maybe I'm simplifying this too much. And I may be, but I only see really two general ways that we can go on jurisdictional issues as it relates to Native Americans.

One is we can struggle through -- and I would caution everyone that we still have a couple other experts we want to talk to, that we've lined up to talk with.

But given what we have right now, we can either pursue this and figure out what the majority of experts say or figure out what the best recommendations are from the experts about jurisdiction and how to resolve jurisdiction in Native American country, or we can approach it from the back end, I think someone mentioned, and talk about the needs of our children and families on territories and reservations and Native country.

And then say because of all these issues and all these overriding issues and the difficulty we have of counting and making certain we count all of our native children who die, this is why the federal government needs to sit down and really put some resources into resolving jurisdiction.

And with that, though, to start the count and to get a better count of our kids who are dying on territories and native communities, we need to somehow convince the people who are currently collecting native numbers. For example, BIA, federal -- FBI, local tribes, to then share the information that they are currently taking so then we can start getting some guesstimate, some range of how many kids we're really talking about.

**Commissioner Rodriguez:** Well, it also just occurs to me that maybe what also needs to happen is tribes need to be invited to share any of the challenges that they're having in either collecting the data or providing -- I mean, because this is sort of the opportunity for them -- it may not just be convincing.

It may be that they have real resource issues, or, you know, education capacity issues, that I would imagine they would be more forthcoming about sharing if there's an opportunity to have those addressed kind of through the Commission than just saying, "Share your data."



I mean, it's a chance to understand why they're not, why they're not collecting or why they're not sharing, too.

**Commissioner Zimmerman:** That is what we're hoping for in March.

**Chairman Sanders:** That's what I thought I was hearing was somewhere in between those two options, that jurisdiction is complicated, there are multiple ways that it's approached, let's look at each of those ways. Identify from a tribal perspective where it might be working, where it might not be, and use that to inform us in, moving forward, related to jurisdiction issues.

It's not kind of solving it necessarily, but let's understand what the implications are.

**Commissioner Zimmerman:** Exactly. Because I don't think that this commission needs to solve it. I think the tribes have to be the larger voice or the primary voice in how to solve it.

**Chairman Sanders:** Given that, is -- I'm not hearing major opposition.

**Commissioner Petit:** The way I would interpret it, for me what would work, is if we say jurisdictional complexity interferes with the protection of children, and there are any number of examples we could cite on it.

But I think the strongest piece that we bring to it is what are the needs of children and how to protect them. And as soon as we get off the path too much on the jurisdictional stuff, we're going to run into the same thing as everybody else that has looked at this issue, not just child welfare, but everything else -- water rights, animals, fishing, everything. The whole complexity of this thing is one that we're not going to be able to address.

I think what we do is we flag it and say it necessitates more measured nuance response, et cetera, but I think the piece that we need to stick with is children are being hurt, families are being harmed by this, and then we say somebody needs to address it. But I don't think we're going to be able to address it.

**Commissioner Martin:** When we began this conversation, one of the things I was hoping was that we would be able to look at jurisdiction kind of like they did for the reauthorization of VAWA.

So we could say, in this circumstance, then jurisdiction would rest with the FBI. In this circumstance, jurisdiction -- so I was hoping that we would come to some one liner, as I say, about if it happens here, on this land, with these participants, then jurisdiction would rest there.

I got kind of sidetracked from that when I heard that even in states where there's MOUs, even if it's supposed to rest with the tribe, based on the MOU, if the tribe doesn't feel they have the necessary resources for federal crime, they will defer to the FBI.

And so I hear what you're saying and I don't disagree with it. I think I would still like to hold out until we had an opportunity to talk to the rest of the experts we have lined up to see kind of where their recommendations lie.

But I don't have an objection to what was recommended, either.

**Chairman Sanders:** Actually, I was just trying to clarify the headings, not necessarily getting into the detail where the subcommittee ends up going. But more was there -- Commissioner Petit initially had concern about pursuing jurisdiction, as I understood it, because of the complexity.

And so what it sounds like, that is one of the headings that we're supportive of the subcommittee pursuing. I think you have heard the input and can pursue it the way that you think fits best with that and come back and make a recommendation.

Because it seems like we're clear that there's support for jurisdiction data, child death review. I still think we need to be a little broader in considering other practices. But I think it sounds like those three headings are the direction; that there's not opposition to that.

**Commissioner Zimmerman:** Who counts, how do we count, where's the count kept?

**Chairman Sanders:** Other things or does that give you --

**Commissioner Zimmerman:** That pretty much summarizes where we're at and it's good guidance, thank you.

**Commissioner Covington:** I hate to throw another piece of guidance in, I guess, if you could call it that.

I think the other issue is the difference, and I'm sure you thought about this, between physical abuse and those real homicides versus the neglect-related cases.

**Commissioner Zimmerman:** Absolutely.

**Commissioner Covington:** The FBI is quick to grab those quick, those homicide/physical abuse. They are not quick to come in and help tribe neglect.

**Commissioner Martin:** That's all over the board, though. But I think it's even highlighted more in native country.

**Commissioner Covington:** We just finished doing a death scene investigation up in Fairbanks, Alaska that was designed for tribal communities, and I was struck on how many -- when we started. At the beginning of the training everybody sort of shared where they were at.

We had several of the communities' safety patrol officers say, "I got forced to come here, but there's no way until the sun sets," or whatever he said, "that you will ever get me to go into a home and accuse these families. I just won't do it. I have to go to church with these families, I work with these families, I eat with these families." These are really small communities.

That attitude changed over the course of a couple-day training, changed really quickly and rapidly to the point that one of them said, "I'll become a trainer for you." But that was really

profound as an observation, that even the safety officers are really reluctant to do these kinds of investigations.

**Commissioner Zimmerman:** One of the issues, too, that that reminds me --

**Chairman Sanders:** Commissioner Zimmerman, we probably need to finish this because we're going to move to the other subcommittee. Go ahead and finish.

**Commissioner Zimmerman:** Just that I was going to say that's why I believe that we have a recommendation of community response.

For example, in one of our recommendations we want to look at not just zero to three but three to 17 on death by suicide, but that's -- but those are characteristics that have to be looked at at a community level, not an individual or family level because it's a much broader question.

**Chairman Sanders:** So we're going to take a break for ten minutes. We'll come back with Commissioner Petit, Commissioner Rodriguez, and Commissioner Kramer joining us for the discussion on child protection subcommittee.

So we'll be back in ten minutes.

**(Break was taken.)**

**Chairman Sanders:** We are going to get started with our CPS subcommittee and turn it over to Commissioners Petit, Rodriguez, and Kramer.

**Commissioner Petit:** I'd like to know if Commissioner Kramer is on the phone.

**Chairman Sanders:** He had been on.

**Commissioner Petit:** He had been on, he's not on now? Do we know?

I guess I'll start and then Jennifer and I will just alternate going through, and we brought Tom who's been -- what's that? No, I think not at this point because I'm not going to refer to everything on there. We're going to be selective, I guess.

So just to begin, there are some beliefs that have served to guide us here, and we think at the beginning we've seen -- we're starting to get a better handle on this thing. Let me just say from the beginning there are some safe net issues here which we're not going to spend time talking about right now.

But one of the problems in the United States is that there are large numbers of children being born into families who are just not ready for them yet, and that is a major issue because in a lot of other jurisdictions either the number is much lower or there's more help available to young families that are just getting going with some of this kind of stuff.

So that's one issue, is that we have more abuse and neglect than other places and that means more of a response than other places.

We have seen repeatedly that whether a child is protected or not is determined in many instances by which jurisdiction they live in, the degree of assistance they get and whether they're even seen in the first place.

We also have, I think, found -- and this will all be documented at some point, and I'm going to ask Tom to comment on this in a minute, is that there is a significant undercount in the federal data as to what percentage of children are known or had some kind of interaction with the Child Protective Service Agency.

And right now, NCANDS, the data that exists shows that maybe 30 to 40 percent of the kids were known to the child welfare system, and I think there's a basis for saying the real number could be double that. And I'd ask Tom Morton to explain what accounts for the difference between those two numbers that were just given. Tom?

**Mr. Morton:** Sure, Commissioner Petit. Currently we're talking about NCANDS. NCANDS captures two categories of children who have had prior contact with a CPS agency. One type of child is a child that's received or was in a family that received family preservation services within the last five years. The second type was a child that was reunified to the family within the last five years.

And one way I guess to framing this is it's the Commission's perspective that -- I mean the subcommittee's perspective at this point that one critical distinguishing characteristic of child maltreatment deaths is the role and contribution of a caregiver, whereas other child fatalities occur for a variety of reasons, different cause and manner, what distinguishes those from a child abuse neglect death is the contribution and role of a caregiver in bringing about circumstances that resulted in the child's death.

So from a standpoint of moving forward, generally as a field and better targeting prevention, it's very important to know more about the life trajectory of caregivers up to that point of the fatality.

So in a general sense, you could say that the universe of children who were known to the system would constitute any child who's been the subject of a prior referral to a child protection agency. You could also say, from the family's perspective that the universe would consist of all caregivers of deceased children who have been a subject of a prior referral to a child protection agency.

Or in a third category, you might say that any child who was a sibling of a child alleged to have been maltreated in a prior referral is also known to the child welfare agency in the sense that there is some history regarding contact with this family.

A second dimension of that has to do with penetration and how far did that referral go. It could be screened out, it could be screened in for an investigation and unsubstantiated. It could be screened in for an investigation and substantiated but closed. It could be screened in for an investigation and substantiated and opened as a voluntary or court-ordered, in-home case.

It could be substantiated and opened as a foster care case and penetrate the system that way.

**Commissioner Petit:** So all of those examples that he has just given would not meet the criteria in some jurisdictions as prior involvement with the family, when in fact, I believe every single example that he used speaks to prior contact with the family.

**Mr. Morton:** Yeah, and I think there are two things, implications of that, that the subcommittee believes, and I forwarded this information to the counting group, that we need an accurate count of all children who have had, been the subject of a prior referral.

And we also think we need an accurate count of all children who die on open cases. In particular, because the child protection agency and system is, at that point in time, actively intervening to protect and ensure the safety of that child. And whether predictable or not, nevertheless, the public often believes that's some sort of system failure.

So that's a bit of a background, and pointing to the fact -- and why we think the number of children who actually can be qualified as known to the system is certainly very much larger than a number that would appear evident from the Indian's data.

**Commissioner Covington:** When you said that doesn't include some kids, who would be in there, what kinds --

**Commissioner Petit:** There's two classifications that NCANDS admits into the circle of prior knowledge. Tom?

**Mr. Morton:** And those two kids are kids who were in a family that received family preservation services.

And just to -- hang on just a minute.

**Commissioner Petit:** Could it have been within foster care?

**Mr. Morton:** NCANDS has very specific definitions. It defines case management services as, "Activities for the arrangement, coordination, and monitoring of services to meet the needs of children and their families." CPS agencies generally use a case management model. So if they open a case, it's for case management for the most part, supervised or unsupervised.

Family preservation services are defined as, "Activities designed to help families alleviate crises that may lead to out-of-home placement of children, maintain the safety of children in their own home, support families preparing to reunify or adopt, and assist families in obtaining services and other supports necessary to address their multiple needs in a culturally sensitive manner."

We think that is somewhat confusing in a sense, because there are programs and services obviously named family preservation services.

So if the child is referred for family preservation services, is that the type of child that's captured in the NCANDS data? At the same time, when you listen to that description of services, it sounds like that's the intent of all cases that are open, but clearly, if you look at the number in the NCANDS data, it is very much small compared to the universe of child protection cases that are open for services during the course of a given year.

**Commissioner Petit:** So in many cases the public is doing its job, other referring sources are doing their job. They're flagging the agency and the agency is concluding that they should not go beyond a particular point. It ends up with an undercount of children that are already known to the system.

Let me turn it to Jennifer for her comments.

**Commissioner Rodriguez:** I think the issue is very similar to the issue for the last subcommittee which is that if we don't have an accurate count of how many children the safety net is currently catching sort of unsuccessfully, then it makes it harder to determine, number one, the effectiveness of the system and also to really look at those cases to figure out what went wrong and where the holes were.

**Commissioner Petit:** I think one of the conclusions that I would make, and I don't know if Jennifer or Bud draws it as strongly as I do, but we're looking at a system or systems that are in crisis in many places.

There is a daily reporting of media, news accounts that Tom organizes for us daily coming in from across the country, and they largely sound the same, "Too many cases, too few workers, small caseloads, insufficient training, insufficient backup services to be provided for the family once they do open cases."

And there have been -- I think, Tom, you have the number -- there have been almost a dozen or so state level referrals -- not referrals, commissions that have reviewed the status of child protection in the states.

There are governors' offices that have been involved, legislative committees have been involved, attorney generals have been involved because so many children have died.

I would also note on this, and I mentioned this morning, we went to Texas, all of us, a few months ago, and we were being told that the child abuse fatalities had dropped dramatically. And, Tom, what's the report that just came in just today, that the newspaper clipping that I read said hundreds of cases of children killed are not being reported?

**Mr. Morton:** Yeah, I think the number was around 670 over the past few years.

**Commissioner Petit:** That did die that were not reported as having died.

**Mr. Morton:** Of child maltreatment.

**Commissioner Petit:** Of child maltreatment.

So we're operating, I think, from the premise that the system is badly outgunned at this point. It's not equal to the task of the number of children that are coming in. There are significant resource issues on this, and in terms of our own process over the last few months, there is not a lot that we have heard that anyone is invoking as having success in reducing the number of kids that were killed.

Jennifer, I know you have something, you and I were talking about that. Do you want to elaborate on that in terms of what that research looks like to you?

**Commissioner Rodriguez:** I mean, it sounds, from my perspective, like lots of people are thinking about this issue, but that we don't have any rigorous research that has been done to look at any stage of sort of CPS involvement from the initial sort of safety assessment to -- and best practices around how you really figure out both the strengths and the risks and challenges that a family is facing, to then what kind of investigation needs to get done and who the players are, who are involved to then -- to me, the whole point of doing an investigation has to be because you believe that as a system you have the capacity to actually support and hold families and protect children from further harm.

**Commissioner Covington:** When you say investigation, are you talking about kids known to the system, for abuse -- CPS investigations?

**Commissioner Rodriguez:** This is all about kids alive.

**Commissioner Covington:** I'm sorry, I just wanted to make sure.

**Commissioner Rodriguez:** All about kids who are currently alive and sort of preventing the fatality. At least is the way -- maybe you could say some of these things are also true for the post fatality, but at least when I'm thinking about it, I'm thinking about initial response when we know a family is in trouble.

I think there are things that we are hearing that make sense. We're hearing that the job is, the job of doing all of these tasks is not one that CPS necessarily has the skills, experiences, or sort of resources to do alone; that it requires a multidisciplinary approach to assessing safety and doing the investigation.

We certainly are hearing, I think, that there's a lack of the type of services that would even sort of make it -- what's the right word -- that even make any sense to have somebody intervene.

If you don't have good substance abuse, domestic violence, or mental health services available, or you have wait lists that are years to get into a program or services that are not high quality, it's questionable about what you can do unless you remove a child.

And we certainly have heard about capacity issues and systems where they're feeling pressure to reduce caseloads, and so they don't want to bring more children in or they don't have a place to put them.

So I think we're definitely hearing some things that are just common sense about the approach that needs to happen, but we are not hearing the research that sort of supports whether these things work.

So that I think is -- I know we're not to the findings or recommendations just yet, but I think as a general overview, that's where we are.

**Commissioner Petit:** And adding to that, there's three million reports a year that are still being made involving about six million kids. And when we were on the phone recently with the Children's Bureau and HHS, we asked the question of how much federal money was earmarked for Child Protective Services' purposes, how much federal money. So that's social services block grant, that's CAPTA. It's a few other programs.

And the number that we were given was maybe over a hundred million but under two hundred million. That didn't include Medicaid services and some other of the entitlement programs.

But just in terms of the Child Protective Services function, it was under two hundred million dollars, is what we heard. We're trying to establish whether in fact that's true.

**Commissioner Covington:** This is the foster care money?

**Commissioner Petit:** No, this is the CPS money. The foster care money is in the many billions of dollars. So we were looking at just the CPS dollars.

What we also don't know at this point, and the Feds don't seem to know at this point, is in response to all of these problems that are being brought to the attention of these government agencies, they don't know what the state spending is on Child Protective Services.

They know what the state child welfare budgets are but they're not teasing out of that the Child Protective Services' portion of that.

So that is a major issue for us, is trying to learn exactly what the states are spending on this problem. And Tom and some staff have begun collecting that information, but only on the state budgets; not the portion that goes to child protection, right, you haven't got that yet?

**Mr. Morton:** Right. There appears to be no national entity that aggregates, collects and aggregates that data. So it's very hard to access. You could go state-by-state and ask them, because obviously they know. They put together their budgets and they know what they're spending money on. But it doesn't appear to exist at the federal level.

**Commissioner Petit:** Tom, do you want -- one of the things we've been talking about is the whole question of safety assessment and culture of safety.

**Chairman Sanders:** Michael, Commissioner Dreyfus has a question. Susan, are you on?

**Commissioner Dreyfus:** Yes, I am. I just want to, because I just heard Michael lay it out beautifully about the realities around funding. I said this earlier this morning. I just want to remind the Commission again as we have this deliberation.



I really do think we're going to have to have some comment as a commission on federal finance reform, and I just remind everybody again that, yes, Michael's right about there's no dollars in Child Protective Services, but the amount of funds going to states are continuing to decline for several reasons; can't go into it now.

And the kind of finance reform being talked about would provide more flexibility for states to move dollars from the deep end into the front end of their system, which could include CPS. So, David, I just want to put on the table, not for conversation right now, but just that there is a current here I don't think we can ignore and that is federal finance reform.

**Commissioner Petit:** I think there's little doubt that at some point there is a resource issue here in terms of the size of the work force, the training of the work force, and the services they have to draw from.

So hopefully before we're through here, we're going to be able to come up with some kind of a number and some kind of a set of recommendations that reflects what those numbers might look like.

**Commissioner Covington:** Can I interrupt? Are we allowed to interrupt?

So are you implying as well that the CPS workforce is severely under-resourced as compared to, for example, foster care adoption workforce?

**Commissioner Petit:** Well, again, you know, there are 50 states, there are probably 3500 different offices where there is a formal child protective service unit across the country, and some states spend much more per capita than other states do.

And one of these we're looking at is the kind of correlation between spending and the kinds of caseloads that people have and so forth.

So yeah, it's wildly different, and we're trying to show the disparity between the states on this thing. And that's part of what we're collecting for information now, is that there is not a single child protection system.

Commissioner Martin was talking about the broad child welfare system. For the moment I'm just confining this just to CPS.

So the child welfare system as a whole, I think is around \$30 billion, when you count federal, state, and local. But the CPS part of that is very small. And that's what we're trying to get a handle on.

I don't think anybody has the information right now, and we'll be trying to collect it from scratch through some vehicle or another.

**Mr. Morton:** There are things that we know, Commissioner, and Michael talks about geography matters. New York City, the standard is no more than five new investigations per month for a CPS investigator. In contrast, workers in Texas receive 30 or more per month. The standards set by CLA and CWLA is more around 10 to 12, although that's a consensus standard, not an empirical standard.

If you look at the press, you'll remember that Arizona had a major crisis as a result of 6,000 cases that were offloaded and never investigated due to the lack of staff resources to investigate them. Florida, Texas, any number of states are in trouble because of CPS investigation backlog.

So it would appear, just looking at that dimension, that there are jurisdictions where staffing is clearly an issue.

**Commissioner Rodriguez:** And I don't think the issue is just that it's under-resourced in terms of numbers of staff.

I think that the issue is also that it's very similar to what you all were talking about in terms of exactly what Tom is saying, that there doesn't appear -- we have as important a function as CPS and the processes involved play in the entire system where that is the alert, the safety net.

There has been almost no attention to sort of helping that system to run the most efficiently. So what happens when a call comes in, how does that call get handled, what is the response time, what type of supervision, and sort of checks and balances.

I mean, if anything, you sort of need the most rigorous accountability and policies and procedures at that point in the system. Because it's -- you are -- essentially you have -- it's a 911 call center, in my mind. And so there's a lot of attention given I think at a 911 level to sort of what happens when somebody picks up the phone and calls 911 on the other end of the line.

And there's a lot of attention given to make sure that the response is standardized. And we have never approached -- it's very loose and fancy free.

So I think not only is it sort of under-resourced in terms of the amount of workers, but really under-resourced in terms of the attention we've given to making sure that it's a system that works for -- that can take on the job that is being presented to it.

**Commissioner Petit:** So in some jurisdictions -

**Chairman Sanders:** Commissioner Horn has a question specific to this.

**Commissioner Horn:** So while I don't doubt for a minute that the CPS is under-resourced and also it's, per Susan's view, that we at some point should talk about child welfare financing reform, I think my question is, is it just a matter of not having the adequate resources or do we also not have understanding how to prevent child abuse neglect fatalities.

I think that's really a critical question in my view, because if the recommendation is we just need more money, that's different than we really don't know what to do or aren't really clear models for them. And while more money is not going to make things worse, it may not necessarily make things better if we don't have good models.

**Commissioner Petit:** Wade, I think you're exactly right on that. So here's where I think, I hope we can agree on.

There are jurisdictions in the country when they get these calls that Jennifer was referring to, there's a 10 percent response rate. That is, they go out and look at 10 percent of the cases.

There are some other jurisdictions where they go out and look at a hundred percent of the cases on the theory that if there's smoke, there may be a fire. And like the fire department, they go out. The fire department doesn't ask how hot the flame is, what the fabric is that's burning. They go out because the consequences of being wrong in their assessment are so grievous.

However, just putting more money into the system by itself, I don't think would work, and one of the things that we've been discussing, we've had long conversations about, and we hope to have a conversation with the full committee, is bringing that multidisciplinary team approach to these cases before the child is killed, and that when you have situations that are unusually complex, and we have, certainly, many of those cases, a group of people would be brought together.

Not just Child Protective Services, but law enforcement, mental health, substance abuse, by a prosecutor who would look at a case and say, "What can we do to protect this kid from what is an obvious danger?" And we all know what some of those obvious dangers can look like.

So I think there is a shortage of resource in many jurisdictions, some more so than others, and there is a lack of knowledge in many jurisdictions on what to do to stop this kind of stuff.

I think we're looking at both of those, what's the resource question in terms of training, caseload size and so forth, but also, how do you best intervene in these things beforehand? Not have brilliant analysis following the death about what went wrong, but beforehand what are we supposed to do?

And one of the things I've gotten from the researchers is we've heard a lot of brilliant people over the last six or seven months who've done one type of study after another, but

I've heard virtually nothing over that period of time in terms of, "Here's what this means for direct practice in protecting a child." And that is a big part of what we're working on and Tom has been collecting information on that.

Hey, Bud, are you on the phone? Bud Kramer is not on the phone.

As we all know, Bud Kramer, as a district attorney and later as a member of Congress, had a lot to do -- is the father, really, of this child advocacy center concept, and is one that we're looking at very closely. We've met with the people from the National Children's Alliance, which is the Association of Child Advocacy Centers and some other specific concrete things we're looking at.

One of which is Tom has been amassing these reports from different states, Kentucky, South Carolina, Texas, and elsewhere, and what we're going to hope to do is draw on some of the

recommendations and findings that they've made as well in terms of how to approach these problems.

**Mr. Morton:** Commissioner, if I could expand on Commissioner Petit's answer, obviously one resource for the system is knowledge and expertise. And one could arguably say that the system is impoverished in regard to sound practice technologies, an example of which he asked me to speak about in that safety assessment. And I'd like to comment about two dimensions of safety assessment.

We did hear a presentation in Vermont from Teresa Costello about the current state of safety assessment. I'm in the process of preparing a briefing paper for the subcommittee and eventually for the Commission on the state of the art of safety assessment.

But I'd just point to a couple of things. This is probably the most critical decision that public child welfare makes. The current instruments in use by the field have no scientific evidence in regard to their validity of specificity or sensitivity in terms of the identification of children at risk of serious harm or death.

And secondly, there -- I've reached out to the two primary organizations supporting current tools, and basically found that there's no scientific evidence behind the items that are included on the safety assessment tools.

So from the standpoint of the state of the art of safety assessment, it's pretty much consensual based on people's opinions about what they think should be important.

Not to say those things aren't important, but just that our primary means of, if you will, triaging kids at risk of serious harm or death from those that aren't is pretty much without scientific basis at this point in the field's evolution.

The second thing I would point to is in your packets is a paper I prepared for the subcommittee entitled, "The Risk Analysis of Critical Points in the Life of a Child Protective Services Case."

One of the things that Chairman Sanders asked me to do when I first came on was to do some background research on critical safety practices in the key organizations. And this is sort of the first thing that I produced.

It basically takes you through the systemic points of risk, so when we talk about safety, mostly we talk about what is it that caregivers do that make a child unsafe.

But the intent of this paper is to basically illustrate how the child protection agency can make a child unsafe through its actions or inactions. And I would urge you to take a look at that when you get a chance.

**Commissioner Petit:** So, Wade -

**Chairman Sanders:** Oh, Commissioner Dreyfus has a question or comment.

**Commissioner Dreyfus:** I just wanted to -- back on what Wade had talked about, and Jennifer, about resources and really agree to that, but also I think Tom just hit it on the mark for me and that is that as a commission, I've always felt going into this work that we're using a 20th century CPS system in a 21st century world. And I say that from personal experience running these systems.

I think the way Tom just laid it out really kind of took my words away from me. So I guess I just want to put an exclamation mark next to what he said, and I think from the Commission standpoint, no, it's not just about more resources. I think we need to have more specific identification of why the current CPS system is really outdated.

And we're relying on a call into a phone intake and everything that Tom just said. I don't want to go into it now on the phone, but I just wanted to mention that, that I hope that as a commission we take on this issue more forcibly about what does the 21st century CPS system look like.

**Commissioner Rodriguez:** I'll put an explanation point behind your exclamation point because I think we totally agree. It is clear from what we've been hearing that, again, if we think of this as sort of the 911 call center of -- for children, that we are doing a terrible job of staffing it and training folks and standardizing procedure and really closely analyzing.

I mean, I recently -- this is sort of a sidetrack, but I recently just talked to people who work for AT&T and who do quality assurance for them. And they have a quality assurance unit that looks carefully at every single case to see how long were people on hold, they go back and check on every single case, what was the resolution of.

And so when I started telling them about the child welfare issues, they were shocked, that we sort of, we pay no attention to just even the way that the system functions on the most basic level, let alone how safety assessment is done and how investigations are conducted; that it ends up being one of those jobs that people just get transferred to.

**Commissioner Covington:** Can I ask a question? I'm trying to figure out -- maybe it's not important about how we got to where we're not or how we got to where we shouldn't be.

So if you're talking about the two primary safety assessment tools, I had always thought those were, had been field-validated, they were promoted by the Feds, states were encouraged to use them.

Did something break down or fall down there? What happens? How does it go out of date, or is it -

**Mr. Morton:** I think people use the best they have, and arguably this is the best we have.

And it reflects the best thinking of the best minds who think about these things.

That's not quite the same as having research behind an item that says there's an association between that item and subsequent serious harm sufficient enough to cause that item to be on this list.

That's not the same as saying that people who use this index use it the same way. So there's a high degree of interrelated reliability, for example. It's certainly not the same as saying it has predicted validity.

**Commissioner Covington:** So you're talking about safety assessments. Have you also been looking at things like structured decision-making and other practices? There's so many different practices as far as getting these kids in.

**Mr. Morton:** Well, structured decision-making contains a series of tools, one of which is a safety assessment tool, and then there's obviously the actuarial risk assessment tool.

The actuarial risk assessment tool has a fair degree of science behind it in terms of its class of (inaudible) validity and its interrelated reliability and such.

That's not necessarily the same with the safety assessment. And if you look at most safety assessments, they all sort of root back to the tool, that action for child protection originated first in Maryland and then in New York.

And most states have tended to adapt and adopt some version of the New York tool as their initial safety assessment tool.

Other states, Texas, for example, created its own model. Washington State, at one point, had created its own model.

So it's not that we can't do it. I think, you know, I just read on the plane here the Texas child fatality study, which is the only perspective study that I've ever seen which looks at the state of the family at the point of the investigation that preceded the fatality; not at the time of the fatality. Cross sectional studies study the characteristics of families at the time of a fatality.

This study looked at characteristics of families immediately before the fatality that might have been prospectively useful in suggesting that a fatality is going to occur sometime in the future in this particular family.

So I think there are findings from that that are really important that could be incorporated into current tools. But to build on what Michael said, if you look at CAPTA, CAPTA theoretically provides funding for the development of research-based safety tools.

I'm not aware of any projects that they funded, that there has been no research that I'm aware of that's been funded in the last ten years around the development of effective safety tools. Not to say there isn't something being done.

**Commissioner Rodriguez:** But even if you had the best possible tool, what we've learned is that we don't have the access to all of the data sources, so from law enforcement, from health, that would allow us to actually complete a tool with accuracy.

I mean, that's because when you do the hindsight evaluations, then you get a full picture of the family and all of the systems that they were engaged in and basically all of the information we didn't have.

I think that's one of the things that we are grappling with is that, what Commissioner Dreyfus mentioned, the 20th century approach that involves not having access to information and not using sort of the resources necessary to really use technology so that we get information from law enforcement, from our health system, from medical, about what the full picture is around safety on this family.

You have to have that in order to accurately use any tool.

**Chairman Sanders:** Commissioner Horn has a question. Commissioner Horn?

**Commissioner Horn:** I want to make sure I understand what you're saying, because it seems to me in my understanding, first of all, without -- if a tool is not reliable, it can't be valid. So are you saying that the risk assessment tool have a acceptably high inter rate of reliability which would generally be seeing something along the points of zero level and above?

**Mr. Morton:** Commissioner, I'm saying we don't know what the inter rate of reliability is because it hasn't been researched.

**Commissioner Horn:** So we don't even know whether two people using the same tool in the same situation would come with basically the same answer?

**Mr. Morton:** That's what I'm saying.

**Commissioner Petit:** There's a lot of freelancing that's going on in these systems, and we've looked at states, all of us have looked at states now in the subcommittee that look roughly the same, same size state, same type population, very different outcomes in the numbers of children harmed.

So, Wade, we have not seen anything that's reliable on this thing, and when we've looked at the disparity between the states, you can see there's a lot of freelancing that's going on with this.

**Mr. Morton:** Let me be clear, I'm talking about safety tools, not risk tools, when I make that statement, Commissioner.

**Commissioner Horn:** Can you tell me the distinction you're making between those two?

**Mr. Morton:** Well, risk assessment tools are generally designed to classify families according to the likelihood of a recurrence of maltreatment within one to two years.

Safety tools are generally designed to be sensitive to and identify children who are at risk of subsequent maltreatment in the immediate or imminent sense with the likely outcome of that maltreatment involving serious harm or death.

So the distinction is time frame and severity when you talk about safety assessment.

**Commissioner Horn:** Are the safety tools widely used in CPS and child welfare around the country?

**Mr. Morton:** Virtually every jurisdiction has some form of safety assessment as distinct from a risk assessment.

**Commissioner Horn:** So what you're saying is that we have a widely implemented practice in child welfare with tools that have apparently no proven reliability or validity in doing what it is that they say they purport to do?

**Mr. Morton:** Yes, and the excuse that's often offered for that is the low base rate explanation or the inability to, if you will, construct control groups because you're not going to withhold placement from a child just to see if the child isn't placed, whether or not the child is harmed.

But as the Texas study I mentioned points out, I think there are ways to do perspective analyses in looking forward.

**Commissioner Horn:** To determine reliability, and you don't actually need to know them to determine validity, either.

I don't -- I'm not sure that somebody has to teach this in graduate school. I don't think that's a reasonable excuse. I just find it kind of appalling that a widely used practice doesn't even have an idea as to whether the tools they use -- if two different CPS workers used it to assess the same situation, would come up with an answer that looked reasonably close to it.

**Commissioner Petit:** Wade, one of the things that we don't know right now is that if you withdrew everything that we were just describing, the risk assessment tool, the safety assessment tool, if you withdrew it, does that mean there would be no increase in child deaths and near fatalities?

My guess is that you would find that there would be a very sharp increase in fatalities in the system. You can't not have --

**Commissioner Horn:** That's what we used to call a miracle question. In fact, it could be the opposite. Tools that in fact do not provide any validity in predicting a child's safety could give front-line workers a false sense of comfort in allowing children with low scores as indicating, you know, not a high degree of risk of being unsafe to be left alone and thereby increasing their vulnerability to significant harm. So that's why you do those studies.

So I don't think -- I'm not saying that risk assessment -- at the very least what it should say is, it seems to me, the conclusion is they are of unproven value.

**Commissioner Petit:** And that's one of the reasons why I think utilizing a multidisciplinary team going into these kids and not just leaving it to a social worker and her supervisor has to be introduced into a certain percentage of these kids where there is a high element of risk where it would be brought to a group of people, not just CPS.

**Commissioner Horn:** Thanks.



**Commissioner Martin:** I have one question, and maybe I misunderstood the conversation with Commissioner Horn. And, again, my perspective's from the jurisdiction of Cook County, and it's anecdotal, but I would suggest to you of the cases that I would deem successful at the end of a year, didn't necessarily benefit from the services and the court interventions that we provided.

I think that there are some families and some children who have this internal something, umph, that allows them to make it in spite of at some times.

**Commissioner Petit:** Can you tell who they are?

**Commissioner Martin:** You can. After you have experience, you can tell, for the most part, when they walk into the door.

So I may have misunderstood the prior conversation, but there are times today that a worker will walk into my courtroom and recommend something and I will not take the recommendation, not because I think that she doesn't or he doesn't have the quality or quantity, professional ability to make a determination, but based on my conversation with the family, based on my conversation with the extended family, based on my understanding of the supports that family has, I make a different decision.

**Mr. Morton:** Commissioner, I think one thing to point out is if you look at clinical judgment, some clinicians will always be more accurate than the instrument, and some clinicians will be less accurate than the instrument. A good instrument will be more accurate more often than the average clinician.

**Commissioner Martin:** Yes.

**Mr. Morton:** So there's a tradeoff in what you're talking about. And secondly, you know, again, I mentioned the Texas study. I think one of the fascinating things about it is they looked at less serious cases that end up as fatalities and what distinguished those cases and what you could identify about those cases.

And one -- I won't go into the whole study, but one of the things that I think was very interesting was that there were often less actionable characteristics in those cases that the average worker would miss.

**Commissioner Martin:** Like what? Give me an example.

**Mr. Morton:** Quality of connection with the child. They made a distinction between parenting skills and parenting knowledge; parenting skills being more visible and actionable, but parenting knowledge, knowledge of child development and so forth, less obvious to the worker.

So you would actually have to do more assessment with the family to get at these less actionable items because they're not as obvious. And one of the realities of CPS on the front end is get in and get out and move the case on.

There's a tension between in-depth assessment, and in Illinois, I mean, one of the things you tried to do was to get cases open for services within five days. Well, you don't do a very thorough assessment. Doesn't mean that the next worker couldn't do a more thorough assessment, but my experience in the field is once the case is transferred, the next assessment shifts away from a more in depth focus on safety issues and onto development of the case plan, which theoretically it should address safety issues but often addresses broader risk issues, for example.

So it's not as though we peel back the onion and take a look more deeply at this family to say, "Well, this family looks lower risk," but it may not be.

In fact, there may be things present that once we see them in the right light will tell us this is a very high risk situation.

Another example is caregiver violence. Workers are very sensitive to violent acts towards the child, but not as -- don't give the same weight to caregiver violence. So dad may get in fights all the time and beat people up on the streets, he's a very violent person, but there's no violent history with the child. So they may not see his propensity for violence in a strong enough light.

I'm just giving you another example of a less actionable item because workers don't weigh it the same way.

**Commissioner Petit:** But in terms of what is actionable, and if you use that 60, 70 percent figure that we said at the beginning in terms of the undercount of kids prior known to the system, if you say it's 60, 70 percent and you look at the million or so cases that are in departments' hands right now, over the course of the next one year, two years, three years, you're looking at 3,000, 6,000, 9,000 deaths in the aggregate period of kids that we already know right now.

So in terms of what it is we do immediately, with that crop of children that we know right this minute, I think we're still wrestling with that question.

It's one of the reasons why I raised this notion, this issue of the multidisciplinary team approach while the child is still living and bringing whatever resources are together on that.

Yes, Tom, go ahead.

**Commissioner Rodriguez:** I think it also goes back to -- for those cases, whether they're low risk or high risk, then what are the tools and the resources that are available to the investigator in order to act?

So if the only tool or resource that's really available is a decision to remove or not remove, then there is always, no matter what you do, there's a bias on the worker in terms of thinking about what the reality is of what they're removing them to.

And so I think that there's some other sort of assessment that happens that has to do with the capacity of the larger foster care system.

And so I mean what we heard in Vermont was that there was sort of an effort to create some other options that were available so that families could go into foster care. So that you could have live-in people that were supervising.

But I mean it shouldn't be the case that that is a consideration, but it is a real consideration of workers when they're going out as sort of no matter what the safety assessment says, they're thinking is this going to be better or worse than the place that

I'm removing the child and placing them into.

**Commissioner Petit:** But an alternative, instead of removing the child from the perpetrator is removing the perpetrator from the child.

**Commissioner Rodriguez:** Or bringing somebody into the family home. There's many other alternatives that we could develop.

**Commissioner Petit:** Yes, so one of the things that we're looking at is that we know that in a number of states there's a significant backlog of cases that have actually been reviewed in a thorough kind of a way. And the question that is going to be raised is is there something that can be done in the short term to clear out that backlog of cases.

So for example, there are some court situations where cases get backed up. I'm not talking about child welfare, but just a number of things. They'll bring in retired judges to help clear a backlog of cases.

Is that something we should be looking at relative to those kids who are in our site right now? Should there be some kind of a backlog review in certain jurisdictions where we know they have a significant problem? And we're in one of them right now where there were six or eight thousand cases sometime early this year that were swept off the table. There was no investigation of any kind.

**Chairman Sanders:** I know Commissioner Zimmerman has something, but if I could maybe put out two areas of questions, not necessarily with answers, but more these seem like issues. One is the comments that have been made about safety assessments and particularly as it relates to fatalities and so forth.

And we have certainly talked a lot about the difficulty in counting fatalities. But we know that there's been a slight improvement in recurrence of maltreatment within six months.

To what extent does that in any way connect to fatalities, and do we have any idea of why that's happened? Are there changes in jurisdiction practices? Is it purely a chance change? Might be something to be for us to get a sense of because if -- because it seems difficult to suggest that new resources or additional resources would be needed without some evidence that there could be improvement in the system. So that's one.

And the other is that the number of child victims as substantiated cases has dropped. And so that could mean nothing. It could mean something. Does that mean that children are safer? Who knows?

But it seems like it would be helpful to look at some of the measures out there related to safety and to what extent are they tied to fatalities and do we know anything about why those numbers have improved over the last six, eight years?

The second area is -- and I think this was articulated particularly by one of the workers in Vermont, but I wonder to what extent we believe that policy, state policy related to child protection and child protection interventions is really geared towards preventing fatalities. And the worker that talked about if you can't prove it, you can't open a case regardless of the belief about whether safety has been compromised by the family. And I don't know how prevalent that is.

We heard that from one worker, that could be an issue. But I think the other part of that is if we look at the number of investigations that are done and we look at the type of investigations, many of them are for reasons that also don't relate to safety.

Therefore older youth that have run away, therefore, older youth that are truant, things like that. And so to what extent does that divert resources from safety and do we know enough about that to speak about how well policy aligns with improving safety for children and reducing fatalities at a state level.

So not looking for answers but just one of those seem like areas that it'd be helpful to know more about.

Any of the commissioners on the phone have a comment before Commissioner Zimmerman? Commissioner Horn or Commissioner Dreyfus?

**Commissioner Rubin:** This is Dave Rubin, just want to say hello to everyone. You know, at some point whenever we start talking about the CPS thing, we end up drilling down to individual cases and some of the other things that go wrong in your cases. But I also have a hard time for myself trying to figure out, it's very hard to get descriptive, you know, in a case for everyone and how do we develop recommendations that acknowledge that a lot of the problems that occurred in these cases occur locally, they occur because of (inaudible), poor communication, et cetera.

But how do we distill from that recommendation that in many ways (inaudible) that might relate to accountability, et cetera. I don't know the answer to that question, but I always find myself kind of stuck on that question when we start talking about the CPS stage.

**Chairman Sanders:** Commissioner Rubin, if you could repeat the last part, I think that you were -- we were having a little trouble hearing you.

The issue related to states and safety. I wasn't sure that we got the gist.

**Commissioner Rubin:** We start talking about the failure of kids who are known to the system. We get into a lot of local examples of kids that fall through the cracks but it's very hard to get some -- where local accountability or poor performance to some sort of descriptive recommendation that you're going to require of all jurisdictions, et cetera.

I always find myself getting stuck because we talk about how safety assessment is done, et cetera, but I have a hard time making the transition to a larger level, system level recommendations that you enforce upon all systems, for example. So I'm not saying there's an answer to that but it's just that I get stuck.

**Chairman Sanders:** Thank you.

Commissioner Dreyfus?

**Commissioner Dreyfus:** Yeah, I just wanted to put on the table, and I wonder if the group talked about this at all, but the uniqueness of this issue as it relates to children under the age of two. And the interstates of CPS as it relates to kids under the age of two.

I know, David, you probably remember out in Washington State that you -- Casey Family funded at my request when I wanted to bring in the Harvard Center, from looking at our child welfare system from the perspective of very young children, and it led to some significant changes in CPS policy and practice.

And so I just didn't know if there was any differentiation, Tom, Jennifer, Michael, as you were looking at this for young children?

**Mr. Morton:** I would say not yet. But that doesn't mean it's not going to happen.

This committee has a very broad spectrum of -- or land, to look at. And it's somewhat struggling with, given the amount of time and resources we have, where our priorities are looking.

And I think certainly children under two, if not children under five, are a very high risk population, obviously, for death. They're -- I think as well, because some of these children are so young, and this perception again that they may not be known to the system.

I can think of a death I read about last week in the paper where the child was referred at birth and died at the age of seven weeks. So the child was known to the system, even though very, very young.

So I think as we move forward we'll look at the unique implications of very young children in terms of identification.

I would add one piece. You might recall, or it's worth recalling, that safety assessment evolved out of the need to answer the question of should we remove this child. And that was its primary function.

It later added the concept of in-home safety plans around the idea that all children didn't have to be removed in order to be made safe, but because of that initial removal decision being the primary driver of the safety decision, that was as well one of the distinctions -- reasons the distinction between risk and safety got made, because you don't simply remove kids because they're at risk of maltreatment two years from now.

**Commissioner Petit:** Susan, what were the principal changes?

**Chairman Sanders:** Commissioner Dreyfus, do you understand the question?

**Commissioner Dreyfus:** You asked what the principal changes were?

**Commissioner Petit:** Yeah, that came out of -- when you said you looked at those two and younger, what was the change?

**Commissioner Dreyfus:** We took away all discretion in intake for screening out calls for mandatory reporters on children under the age of two. It was an automatic screen in and we went out.

There were a couple of others I don't remember. Denise Revels Robinson, who was my director/assistant secretary would know much better, and she's now leading the new federal resource center, consolidated federal resource center on child welfare.

**Chairman Sanders:** I think Commissioner Zimmerman has been trying to get in.

**Commissioner Zimmerman:** It goes back to, I think, as we're thinking about assessing safety, not just for removal, but keeping the child safe in the home.

I wanted to comment back on Jennifer's comment that I really do believe, from the child welfare workers at the state and tribal communities that I've worked with, that there is a subjective element to this. And I know, for the tribal communities that we work in, the child welfare workers are tolerating very high levels of neglect because there is no other system to refer these kids to.

There is no -- they want to go to kinship placement, but sometimes, as we know from many families, it's multidisciplinary generational substance abuse and mental health issues.

So there seems to be a lack of a family member that can take care of that child.

And then the idea of taking the child and removing the child from the home means they have to remove the child from the tribal community and that's something that seems contrary to their belief system or their ethic. Not just around ICWA but as tribal members.

So I think safety assessment is a key issue that has to be looked at and what that means, but not just leaving it at safety assessment, but thinking about the broader system of where -- what's the role of foster care, how does it support this?

Because I really do believe they are making those decisions based subjectively on their own opinions about what they're removing the child to.

**Chairman Sanders:** Commissioner Martin and then Commissioner Covington.

**Commissioner Martin:** So I try very hard to look at safety in conjunction with protective factors. I think even if a family scores a three on a safety assessment but one family has greater protective factors, that should be considered.

I think, at least my child welfare workers know when they come into my courtroom, they're also going to be asked the question about protective factors in order to get a reasonable efforts finding, but I would dare say that's not the norm. I would dare say that is not the automatic.

I wish my workers would think about the consequences of pulling out a kid more often.

Because I'm famous for saying, "Until you can prove to me that you're going to place this child in a better environment, don't talk to me about pulling the kid out."

My point is that I think risk assessments have some place in investigations. I'm not sure that we should be relying on them as heavily as we do and forgetting to think about the other things that are directly in front of us.

And my problem with that is when I say that to researchers, they always talk to me about all these assessments are evidence-based and best practice and all that stuff. But the reality is if all of these assessments, risk and safety assessments are so great, I wouldn't need someone who actually went to social work school, right? I would just have someone go check boxes.

The point I'm trying to make is that we as a system, a broader system, has to think when we're using the forms and that's what we don't do. We get into patterns and we talk about things and we bring in conclusions and we fail to think when we're using the forms.

So what I would say that would be better for my kids is that we utilize the forms as a template but not rely on those solely, and actually think about the professional trainings that we've received and the history and the experience that we have in order to make a more adequate assessment.

That would include judges with experience, that would include case workers with experience. That's not just risk assessment, is what I'm trying to say.

**Mr. Morton:** Again, if I could distinguish between risk and safety assessments, risk assessments can be a bit more mechanical. Safety assessments necessarily require professional judgment. There's no way around it, because you can't easily measure the intensity of a particular dynamic in a sense.

**Commissioner Martin:** But, Tom, with all due respect, what will happen is they will come into my courtroom and say dad's an abuser and so automatically mom has lack of supervision qualities and we need to talk about taking the kid out of the home. They don't even think about whether or not they need to assess mom separately.

So what I'm saying is whatever the assessment tool you're using, we can't use that devoid of common sense. We can't use that devoid of expertise.

**Mr. Morton:** I'm agreeing with you, and I think one of the reasons PL96 272 created judicial review, and also we created the mechanism for 72- or 48-hour hearings was that a judge would have to, as it's worded now, make it contrary to the welfare decision and a reasonable efforts' decision.

It is extremely rare in this country for a judge to find no reasonable efforts were made to prevent removal. It's a rubber-stamped decision.

But at the same time, the reality on the street level is I'm a CPS worker, I get called at the priority one response, I get in my county car, and I drive out to some neighborhood. And the reality is within 45 minutes, an hour max, I have to make a decision as to whether or not I take the car seat out of the trunk, install it in the car and take the kids with me or leave the kids there.

What's really obvious in my face are those threats. What's not obvious but highly relevant, as you really appropriately point out, are protective capacities. And you just can't really evaluate protective capacities in 45 minutes.

Now, you could say in some jurisdictions you can't remove kids without a judicial order. So they call the judge and they tell the judge what's going on and still the judge rubber stamps the decision.

But, the other three areas for the work group which haven't been mentioned yet are work force and workload practice and its evidence of impact on fatalities, and the last, the system resources. Those are the four main themes that have been identified so far.

Pertinent to your question is are we hiring people with the critical thinking skills to do the tasks that you have just defined for them?

My experience in this field is we hire predominantly people who are very concrete thinkers, they have trouble with abstract reasoning and they have trouble doing the critical analysis that you're talking about.

So it's much easier to walk in with an affidavit and present it to you that says the mother tested 10,000 in the hair for this drug and the kids need to be removed.

**Chairman Sanders:** Tom, can you repeat those four areas?

**Mr. Morton:** Sure. Safety assessment. Second is work force and workload, including turnover as a factor. The third is practice and its evidence of impact on CAN fatalities, and that's not just the CPS agency practices but key partner agencies like substance abuse, mental health services for kids and parents, domestic violence and so forth. And then system resources.

**Commissioner Petit:** Pat, I'm wondering, as a judge, do you ever see cases come in that have been subjected to a multidisciplinary team review that represents different disciplines?

**Commissioner Martin:** Yes, in Cook County we now have what we call an integrated assessment. The problem is it's developed on the model of MST where they have an interdisciplinary team go into the home and assess the family on a juvenile justice side.

The difference for the integrated assessment in Cook County is that they don't go into the home. They have the family come to the sterile office which I think blows the whole idea.



But we do have the integrated assessment, and based on that assessment done by the psychiatrist or psychologist, they will determine whether further testing needs to be done and determine if meds are needed.

Based on parenting assessment, they'll determine whether or not the mom needs --

**Commissioner Petit:** Would law enforcement be present?

**Commissioner Martin:** Law enforcement is not present, but the state's attorney, the charging agency is present.

My point, back to Tom, this reemphasizes and underlines what I've been trying to say, that child welfare is not the only part in the safety of the kids.

So if I have a worker who's fresh out of college and majored in geometry, the responsibility is on the court not to assume and allow her to give me conclusions about a dirty house and that I need to actually go into what's so dirty about it. Why can't it support this child? What is the safety risk to this child in that home?

It's not just words. It really is a shift in the paradigm about how we look at the safety of our kids. We can no longer afford to leave it in the hands of just this worker.

**Commissioner Rodriguez:** But it's also not just staff who -- we don't just need staff who have critical thinking skills. I totally agree with that. When we talk about protective factors, we're talking as if they are inherent; they exist or they don't.

And I think the truth is that there are some that are true, but there's a whole lot of protective factors that can be built for a family.

I really think we need to have workers who have the skills to actually do the work necessary to build the protective factors as part of the casework as well. I'm thinking about the pilot they have in Wisconsin and Hawaii where when they go out on an investigatory call, they're bringing a family finder with them.

And so immediately the worker goes in, does their safety assessment, but the family finder immediately, right there, finds all the family who's available using technology and alerts them, and says, this -- "We don't know what's going to happen, but this kid is in trouble. Can you come and help? Can you help your family? Can you help this kid?"

So, to me, that's an example. That's a huge protective factor. That is something, getting other people involved and the family not so isolated is something that's pretty major, and it's a very small investment in terms of they're contracting to get this family finder out there.

I think there are things that the worker can do that can in fact build protective factors around the family.

And I was just waiting to respond to Susan's comment, too, about kids under two. I do think there is a special obligation, in thinking about all of these things to kids who are most vulnerable, and I think those do include, in my mind, the three categories, and there may be more.

But the ones I thought of so far are very young children who are preverbal, who can't actually be a part of speaking out saying, "This is what's happening in my home," and because of their developmental stage are particularly at risk. I think that's one group.

I think another group is children who we've already removed and who are under the government's care, because based on sort of your discussion around how important it is, the attachment that a caregiver has to a child and the investment. When you have kids who are placed with an alternate caregiver, a nonrelated -- I'll say a stranger, foster parent, I think there's an inherent risk in that situation.

And the risk might be because of their attachment, it may be because of their lack of information about the child's allergies or what their reactions are going to be. But that's another group that's particularly vulnerable, both actually and because we have a special responsibility to them.

Another group that we've already talked about is like those older -- David, you mentioned them, the older youth, the youth that are trafficked, that's another group that CPS frequently doesn't want to get involved in. They don't actually want -- I mean, if you did a safety assessment on any one of those, you know, teens and preteens, you would find they are at inherent and immediate risk of fatality.

But CPS often says, "Well, we don't have the capacity in our system to serve them so we're not going to take them into care."

So when I think about all of these issues, I just wanted to underscore that I'm definitely thinking about how these impact the most vulnerable kids.

**Chairman Sanders:** If I could make -- Commissioner Dreyfus wanted to make a comment.

**Commissioner Dreyfus:** Just back to the three quick points. First of all, one of the things that has always impressed me is just the immediate adversarial nature of the CPS process. And there are -- I've shared this with you before. I think there's good things going on around the country.

We're bringing in people from the community with that investigator. It is reducing the adversarial nature of the response because we're hitting people who have had their own trauma. And so we've got a high fight or flight stance. It's all grounded in the executive function science.

And where we can reduce the adversarial nature of that investigation, they are finding that they are able to get families much more engaged and involved in services and supports sooner.

So I just want to put on the table anything that reduces the adversarial nature of that investigation I think adds to a lot of what Judge was saying and Jennifer.

The second is I just remind us with law enforcement, right, and this goes back to the analytics. It always has struck me, you know, calls come into 911 and there are certain calls

that a team of law enforcement always goes out on. They don't wait for one to go and then call the rest. If there's domestic violence, there's two that are going.

Sometimes a couple of calls are dispatched out on the road for certain potential traffic issues that are going on.

I keep thinking we could be doing a better job of not just sending out -- and I think we are fortunate to have Tom Morton. I think he's one of the best people ever in this country -- I feel like I'm watching a soap opera sometimes, we've been talking about this stuff for over 25 years -- but why we send out an inexperienced lone person and don't do a better job with the analytics with the kind of calls that come in, and when it requires an interdisciplinary team, to go out at the time, to spend more resources and get more of a team out there, so that you don't have a lone person with 45 minutes and lack of real critical thinking skills.

And then the last thing that struck me and when -- after I review these cases, was how oftentimes -- I'm just going to assume that's the intention -- but that these caseworkers, not just CPS, but the case managers, never talk to these kids by themselves.

They always talk to them in the presence of either caregivers or they would take a look and see that they're sleeping in the bed, okay, they must be fine, and not look at them underneath those covers.

So that's also something that always has struck me, that practice of not giving these verbal children, and even nonverbal children, where you're seeing them alone and not in the presence of their caretaker.

**Chairman Sanders:** Commissioner Covington and then Commissioner Horn.

**Commissioner Covington:** I was thinking along the same lines as you, Susan, because I like the analogy of the 911 call.

I'm thinking of the subcommittee doing some work around -- just getting away from the idea of sending out a worker, getting away from the idea of a CPS worker going out there, and trying to think of something really radically different that would respond to try to help the families at the same time.

I know, Michael, you've talked about a multidisciplinary review but that's still done sort of post the event or post going out there.

The other thought I had would be -- we talked a lot about safety assessments, but in our reviews of child fatalities, there's so many cases where the case was never accepted into intake so there was never a safety assessment. There were multiple, multiple, multiple calls come in, and I don't know how or what we can do in that way because it's been -- it's a piece that drives me crazy.

I know Michigan, and they don't have their data yet, but they issue, for example -- because with their child death reviews we saw so many that were getting multiple referrals. So they have a new policy in place. I think it's after three referrals for kids under four, it mandates an investigation rather than just accepting multiple calls.

And what Susan had said, which is if it's under two years old, they automatically take the referral. I don't know what the answer is there, but I think we've got to look at something different because we see so many of these kids.

**Chairman Sanders:** Commissioner Horn?

**Commissioner Horn:** I just want to make a comment that may or may not be helpful. But when I think about the various recommendations or how we might think about them and developing them, I think it may be helpful for us to keep in mind sort of three buckets. One bucket would be what we know. One bucket would be what we think we know and the other would be what we don't know. And I say this because I've heard a lot of really interesting ideas but I think they fall into the second bucket, not the first.

So while multidisciplinary teams may be a wonderful idea and may actually be the best idea, do we really have evidence to say that that's the idea and that truly is an effective way of preventing child abuse neglect fatalities.

I just think that we don't want to make the same mistake that others have made in the past, which is to come up with something that sounds really good and then only to find ten years down the road it really didn't do what people hoped it would do.

Because if every good idea that everybody had in the last 30 years, and the hopes of every proponent of those ideas, did they actually work like the proponents expected it to or wanted it to, we wouldn't have this commission.

I just think we need to have a little sense of humility in our report as to what it is that we know, what we think we know, and what we don't know. And it seems to me it's helpful to think about issues like safety assessments.

So what we know is that safety assessments have not been shown to have proven reliability and validity. That's important. We know that. And I'll take Tom's word for that.

What we don't know is whether or not the safety assessments, despite the fact that they have proven -- they don't have proven reliability and validity, that may be helpful. We don't know that but it might be true.

So like I said, we all have a little humility when we talk -- I know we do and nobody's saying their ideas are perfect, but it's just helpful for me to remind myself from time to time that just because something I want to be true, may turn out not to be true or not to be as true as I think it should be or would like it to be.

**Commissioner Rubin:** May I make a comment at some point?

**Chairman Sanders:** Go ahead.

**Commissioner Rubin:** I kind of agree with Wade. I think we need to be very careful. I think in many ways when you look at health care reform, as an analogy, there were a lot of elements

here that we -- a lot of uncertainty as to what will work, what does work, what's local, what's national.

What you want to accomplish, some level of standards, what we're trying to achieve, and that is (inaudible) trying to get better.

There are holes that I think of, as a clinician, around, for example, that program, that -- what types of information do people have and screen it. And there may be some very concrete areas that could be better defined particularly with (inaudible) differential response. What information can be available to people that they're screening.

I think some of the ideas, that once you have that information, how you use analytics, the experience of your staff that's helping you investigate the case. I think there's others in this country who might even advocate that you need to do -- investigate every case that gets screened in the same way and through your analytics be directed to those cases you would be most worried about.

But in any case at a point of uncertainty, the humility would be to say how do we incentivize systems to take chances and evaluate the successful approach rather than be too prescriptive, based on knowledge that we really don't have in terms of child abuse, neglect fatalities.

**Chairman Sanders:** Thanks. Commissioner Dreyfus, anything else that you have? We're going to take a break in just a minute.

**Commissioner Dreyfus:** Piggybacking on what David just said, kind of going to our conversation tomorrow, but in our conversation with Jack Shonkoff that David and I had, one of things he just reminded us is that in our quest of the country to think that everything has to be an evidence-based practice, we're not doing enough around developing that next generation of evidence-based practice.

I couldn't agree with Wade more about being really humble and clearly delineating what we know and don't know. But I do hope this commission will be fostering, through its recommendations, an environment of it's time for some innovation in this area. Here are some good things that we think show some promise and something with some rigor that would finally get us to where we're in a much better place than we are right now, as Tom is laying it out.

So I just hope we foster, not just -- well, if it's not evidence-based, we're not recommending it, but maybe recommending some approach that specs could take similar to what they do with maternal child health where they foster a laboratory of things to really start innovating testing and evaluating what works.

**Chairman Sanders:** Thank you. Why don't we take a break for ten minutes and we'll come back, wrap this up, finish up this portion of it.

**(Break was taken.)**

**Chairman Sanders:** We're ready to finish up on this.

So we have the four areas that the subcommittee was recommending, safety and risk, work force and workload, practice and evidence, and system resources.

And I'm going to make a suggestion. And I'll turn to first to those on the phone and then everybody to comment on it, but it seems to me that we've heard considerable testimony about the children who are at risk for a later fatality, and I would argue that everything that we've seen and heard both in policy and practice suggests that the response for the system is not commensurate with the level of risk faced by certain children.

I think Commissioner Dreyfus mentioned the risk for young children particularly and the fact that much policy is consistent with that. And it's not consistent with responding differently to that group.

So I wondered if the -- if it would be wise for the subcommittee to focus on how do we better respond in a multidisciplinary way to those children who are at the greatest risk, and begin to build evidence of what works versus continuing to explore different options that may or may not result in the kind of action that would lead to a reduced number of fatalities due to abuse or neglect.

I'll throw that out, and I would be curious to hear from any on the phone about that.

Commissioner Dreyfus, Horn, or Rubin, are you still there?

**Commissioner Rubin:** I'm still here.

**Commissioner Dreyfus:** I'm back on. I think that's a great idea.

**Chairman Sanders:** Thank you.

Commissioner Petit?

**Commissioner Petit:** In response to that, because if we're not finding research-based evidence or evidence-based research and the question is no one's really doing anything that we're measuring, how are we going to be able to agree on anything that can go forward if there isn't and then to do it takes years. So let me toss out this more maybe pragmatic idea.

**Ms. Lehman:** Let's take Texas for a moment. Let's say they have 30,000 open cases. They lose about 300 kids a year, right. What about taking -- so a sampling of a thousand kids or two thousand or five thousand, knowing that for each ten thousand kids of the 30,000, you're going to lose a hundred kids because that's what they have. They have 300 kids that die, all right.

Why not on those do a premortem review, looking at those cases, bring in some people where you have backlogs of cases, bringing in social worker, public health nurse, cop, whoever it is that you want, and take a look at those cases, and in effect, second guess or confirm what has already been done on them. Has enough been brought to bear on that particular group of kids?

If you've had a group of five people looking at a thousand cases, would they reach a different conclusion than the department on its own had reached with those cases, and then see what happens?

You could do it with a control group, you could do it with a group of kids who you weren't going to that review of, right, because you're testing something.

But you'd have an idea pretty quickly as to whether or not there was different intervention and different outcomes for a group of children.

**Chairman Sanders:** I would suggest, my position is that how that proceeds would be fine.

What I was responding as much to is the four categories, and I'm not sure that in the immediate term we see a change in safety for kids as a result of exploring those four.

It seems like they're important, but it does seem, the kind of approach you talked about, anything that immediately addresses some of the issues we know exist begin to build evidence of what works.

**Commissioner Petit:** My basic concern is that the recommendation, the principal conclusion will be we don't know that much about it, we need to study more. That is, to me, the worst fear that I have about the whole exercise that we're going through is that we don't know enough to do something significantly different, and then how would you, how would you acquire that information?

For example, we've got 20, 30 years of reports that say multidisciplinary teams that involve law enforcement should be implemented. We haven't done that on a large scale basis like right now. You know, after -- at the time of the report.

I'm just concerned that there is not research going on right now that feeds us information about how to intervene right away. And I don't think we're going to have it between now and the end of the cycle if the research isn't already underway.

**Commissioner Covington:** But if we already know which kids seem to be most at risk, that might be something you can build automatically at intake so certain risk factors would automatically trigger an investigation. Sort of like the birth match project that Michigan had done where they automatically required investigation if the child was a newborn who had prior family termination.

**Mr. Morton:** I think Commissioner Dreyfus mentioned an example, if we know the risk for infants and yet we potentially leave them unseen, both by policy and practice, it seems that's the kind of thing that -- and I think that's what you're talking about, Commissioner Petit, really, how do we look at that differently than perhaps we have.

**Commissioner Rubin:** This is Dave. I'm jumping ahead a little bit, but there's a couple of things. I kind of agree where the conversation is going. I agree with you, Michael, that you don't want to say there's nothing we can do. I think that, to me, you start by what is the information that every intake person should have at the time a call comes in and what do we know about the information available. Whether that's a reverse match or the information of

birth history, the information of screened in screened out report, can we come up with a consensus as to what information everyone should have, you know, in terms of in front of them that they make those decisions.

Beyond that, I think that what you can -- it's jumping ahead to tomorrow, but right now, as we kind of delve into first the work with the Maternal and Child Health Block Grant, the states define what their public health priorities are.

And as far as I know, and I may -- from what I understand, none of them actually explicitly develop a child fatality review plan or an approach to preventing child abuse, neglect, fatalities.

Should all states be required to develop a plan and actually make this more of a locally generated response where we define elements or standards that we're looking for, but then require the states to do their own innovation on how they would apply those standards?

So I think there's an inbetween there where we define the essential elements but then let states and local figure out how we're going to implement them and hash the requirement out demonstrating the plan and how it makes us ultimately do a child fatality review.

**Mr. Morton:** If I could add something, I think that one of the risks we have is assuming that our current methodologies are perfectly sensitive and perfectly specific, that all true positives are identified, all true negatives are identified, and in fact, there's a mix of false positives and false negatives.

In the last few weeks I've gotten concerns, especially after I heard Emily Hornstein's presentation and a few others about the reality that we may delude ourselves into thinking that kids we call safe are really safe.

It's not that I'm disagreeing with you, David, because I think we may be saying the same thing in a different way, but that we need to be able to take a second look at the population we call safe around another set of characteristics, because the characteristics we use to determine immediate safety are very here and now, right now oriented, as opposed to being more oriented to what Teresa Costello called impending danger.

Therefore, there are opportunities for improvement in our ability to better do that, but all of that said, we have enough information to better target populations that are at higher risk of fatality and could do a lot more in that regard now.

The second thing I would say is when you look at kids who die who are known to the system, some of those kids die because the interventions used were not virulent and not effective in dealing with the threats that existed or improving the protective capacities that were needed.

And as we think about recommendations -- you think about recommendations; I'm not one of those people who makes them -- so I would come back to what's the efficacy of our primary services that we use to address the threats: Substance abuse, mental health, adult/child domestic violence, other kinds of things.



And I'll leave with you one example that was brought home to me in my work in Las Vegas. We had a work force that assumed that all domestic violence should lead to anger management training. And if you look at what's known about aggression and violence, there's two kinds. I'll boil it down. There's instrumental violence and there's reactive aggression, so to speak. I get mad, you hit me, I hit you back.

But there are some people who are instrumentally violent. They use violence and aggression as a way of controlling people. And batterers are those people. And batterers do not respond to anger management training. It's not about loss of control or poor impulse control because they're very purposeful in their use of violence.

So there's some knowledge that we have at hand that we need to better use in helping our staff segregate cases into the right services.

Because I think we have a lot of people going to the wrong services right now, and that's, in part, why kids die who are known to the system, is they're not getting the right services, or it's the right service but it's not an effective service.

**Commissioner Rodriguez:** And those community-based agencies that are providing the services, they are relying on child welfare to tell them what kind of services they need.

That's the other thing, and that doesn't happen right now. Child welfare doesn't purposely say, "What we really need is we need a service for, an intervention for domestic violence that has the following qualities," or, "We need mental health services that deal, that are specifically for people who are psychotic who don't know they're ill."

So the providers in the community are left to design their own without really knowing what the capacity is internally that child welfare is struggling with.

**Chairman Sanders:** Go ahead.

**Commissioner Dreyfus:** I'm harkening back to Dr. David Melton and his whole conversation with us about (inaudible) contribution and fatal attribution error. One of the things that I did say that kind of surprises me to say it, as a former child welfare director, but I think the worst thing we could do is to focus again, as Judge keeps reminding us, on, quote, unquote, child welfare.

I think, similar to what's going on with site-based work around the country, shared governance, shared community responsibility as well as what -- the changes Dr. Lu is making around maternal child health in the country, I could think -- I think to get the child welfare agency to quote, unquote, be responsible, I think we've got to put it into the light of day in full partnership with community to solve an issue together.

So I just think anything we can do -- again, I go back to, yes, CPS has to work in the 21st century the way that CPS needs to work, that 911 call has to be effective. And I agree with everybody and their comments they made about it, but I do think if it relates to the larger issue, we have to make sure our recommendations are pulling people, giving incentives for why people would be coming together to take on and tackle a very real goal of reducing the killing of children from abuse and neglect in their community through a shared responsibility

approach, and not just letting this, one more time, sit at the heels of the public child welfare agency.

I think that will change the child welfare agency quicker than anything, but I also think it's going to give us these cross system issues that Jennifer keeps reminding us of fully at the table as well.

**Chairman Sanders:** It sounds like we would be, as a commission, suggesting something more action-oriented that really is based on what we know, informs us as we move forward into the future, and incorporates all that we've heard about the importance of an interdisciplinary approach, and really that the committee can take that information and put forward whatever seems to make sense.

**Commissioner Dreyfus:** And build off of the momentum in our country right now that's already in place, and that is the whole momentum around collective impact place-based work. I think it's going to be, it's going to continue on beyond this Administration and we should connect ourselves to it.

**Commissioner Petit:** Which does speak, I think, to the idea of some experimentation with the states in terms of some that would step forward and say we'd like to participate in this, who'd want to be part of it. Whether it's review of the backlog of cases, or whether it's different kinds of technologies, or whether the use of multidisciplinary teams or whatever, my guess is there's something you could put in place in fairly short order and see whether or not you can generate the kind of impact that we'd be, frankly, speculating about and experimenting on.

**Commissioner Dreyfus:** And I think the model is there right now. Again, I keep going back to public health and maternal child health, but I think the model is there right now, with what CDC shared with us around the well-being of kids and the five states in the country that are really tackling that.

I think there's a model out there we're not recreating in terms of latching onto it and bringing it to life on this issue.

**Chairman Sanders:** Commissioner Rubin, I think that's reflective of what you suggested. Have we missed anything?

**Commissioner Rubin:** What caught me is, especially with HRSA, is that with the Maternal and Child Health Block Grant, states actually choose what their priority issues are going to be. And they submit the plan and -- it's not a ton of money but it's an important source of money.

But what I liked about it is that it's a very -- that's a state level plan. I'm sorry, that's a state level plan and what I thought was, you know, one of the things we're investigating for the public health group is what would it look like to require as - have a requirement for MCH funding every year, that the states come together and develop a plan. And one of the requirements, in addition to their optional choices, was that they have to develop a plan for reducing child abuse and neglect fatalities. And that would include both within CPS and outside. So that it was much more of an inclusive process.

And then if we focus on defining some of the essential elements of things we found, that this could set up a process where there would be a lot more state involvement in defining their approach.

**Chairman Sanders:** Commissioner Rodriguez and Petit, does that work for you?

**Commissioner Petit:** Is the session coming to close? It does for me, yes.

**Commissioner Rodriguez:** You mean our new guidance, does that work for us?

It works for me. I feel like that's pretty focused and it reflects a lot of what I think we've learned already.

**Commissioner Petit:** I am still of the mind, and I'm presuming all of us are, that there is something yet to be determined that on a short-term basis can actually be shown to protect children from being killed without waiting for the results of some research that some years from now is going to be available to us.

And if anyone on the phone at this point believes that we have heard a research report come in that shows a cause and effect, besides that Florida piece, which we're looking at more closely, but if anybody is showing cause and effect with an implementation of particular strategy and reductions in child abuse deaths, we'd certainly like to hear which thing it was that you heard that fed into that. Because I haven't seen it yet.

Jennifer, do you agree?

**Commissioner Rodriguez:** I agree with it, but it sounds like the directive that we're being given is not to uncover the evidence base but to think through, based on what we've heard and sort of the promising things, what are ways that we -- we know who the kids are who are most at risk, we know that multidisciplinary is better than having one worker in every case, it's always better.

And so what are the ways that we can, you know, ensure that whatever sort of emerging practices, that the federal government is helping us to identify those, evaluate those, fund those, and cede them. I feel that's very clear and concrete and could have some immediate impact.

**Commissioner Petit:** Related to that, and David and staff asked this question and the restrictions that we're bound by, but we still haven't sent, to my knowledge, a letter to the states asking what they are doing and do they believe they've done something successful, is there somebody out there that thinks they've got this thing figured out.

We're going to have visited 10 or 11 states before we're done, there's still 40 others that we haven't spoken to. So is it possible -- and I know we get into this thing with OMB or somebody about soliciting information with the states' surveys. Maybe that can be done through somebody else.

**Chairman Sanders:** I would suggest, given our structure, that that would likely emerge through one of the subcommittees as a recommendation for our work moving forward. And if it does specifically, then we should put something together.

I know you've mentioned it. I don't know if it's actually come through as a recommendation from the subcommittee or maybe it's a policy subcommittee.

**Commissioner Petit:** Well, on our list of information to gather, we certainly have said that we'd like to collect, ask the states how much money they're spending on Child Protective Services. And in answering that question, what they believe they're getting for it.

And again, we see states of about the same size, same population, same wealth, same population characteristics, and some have child fatality rates that are three or four times higher than the others.

**Chairman Sanders:** We perhaps can spend some time on that tomorrow. I think that would be an important issue for us as a full commission, to have some discussion about and agree that that's a direction we want to pursue. If that's a recommendation that's on the table, we should probably talk about it as a full group. We'll probably have some time saved tomorrow so perhaps we can do it as part of the policy report.

Anything else, then, on this one? We'll move to a very short, I believe, discussion on disproportionality. I have a bet with Commissioner Covington that it will be short.

**Commissioner Martin:** And for Commissioner Covington, it's three hours long. For everyone else, it'll be short.

So with respect to disproportionality, first let me say that it has truly been a pleasure working with Marilyn. She is a great advocate, but she is also someone who has very broad ideas, and it is great having that capacity and being able to take advantage of that.

I also want to just let you know, and we failed to do it earlier, but working with American Indians, we have -- on the staff we have Cheryl doing that, and then on disproportionality we're going to have Rachel, and then we also relied very heavily on DDG, Miles, and Deidra.

What we've done for this portion, and I'll begin it and Marilyn can help add in all the things that I failed to mention and should have mentioned. What we've done is preliminarily looked at a lot of the reports that have come through in the past, particularly beyond rhetoric, the NRC 1993, "A Nation Shamed," the GAO, and some other reports and tried to pull out any recommendations that dealt with minority or ethnicity or cultural identity.

And then what we did was narrowed down the recommendations that were repeated in the report. And then the other thing that we did was we had some conversations, preliminary conversations with OJJDP and then amongst ourselves. So that's where we're going to give you some information.

I don't think we're prepared to make any recommendations, but give you information about where we're looking to go and ask for your recommendations about direction, if that makes any sense.

So one of the recommendations we've come across quite often, more than at least twice in the reports that I've indicated to you, is that there have been recommendations to make special efforts at providing educational and research support for researchers to actually look at what is important for ethnic and cultural minorities in child welfare agencies and how that may relate to childhood deaths.

And, you know, when I think about the statistics that we keep repeating off and on, about the fact that black children are three times more likely than white children in foster care to die, that makes a lot of sense to me. So I think that that is something that we've been talking about and trying to see.

I think I mentioned this one before, and it's a GOA request or recommendation, and that's for states' military branches and Indian nations to implement joint criminal investigation teams for cases of abuse and neglect when it deals with cultural minorities and ethnic minorities.

The other one that I thought was very much -- you know, based -- it seems we keep coming back to these death review recommendations. And again, the recommendation for death reviews and have teams that also establish in military branches, Indian nations, and other territories and communities with minorities about specific issues and factors that come up in death reviews.

And so the idea, I guess, what I would like to put on the table is I'm still trying to answer the question, are there specific issues that deal with minorities?

Anecdotally I will tell you, sitting in Cook County on the bench every day, there is something going on with the quality and quantity of services. Cook County is the king of kinship care, and most of my kids in foster care and out-of-home placement are black. So most of my kids are in black kinship care homes. And I can't tell you the time that grandmother will come in and testify that, "When I have a nonrelative kid in my home, I somehow get all these services. Now that I have my biological grandkids, I somehow don't get these services."

I can't tell you how many times I will get a methadone patient from the South Side and they are completely noncompliant, and when I start asking them about their treatment program, it appears, just based on the times they go to the center, that they're getting less methadone than the people who go in Rogers Park.

There has got to be -- so that's anecdotal. So I don't know if it's true or not. I can't sit here and say that I know for a fact that if you have your grandbaby in your house, you don't get monthly stipends for shoes and socks or whatever. But I will tell you that it's more than one time and it's more than just infrequently that those comments come to me.

If we agree the work that Casey did awhile ago about the overrepresentation of minorities-- and I certainly agree that not every state has an overrepresentation of blacks, but they have an overrepresentation of some minority, right. Even in Hawaii we have the overrepresentation of Pacific Islanders, right.

If in fact that's true, and I know that the INS reports -- the NIS reports have given some reasons why blacks may be more represented in child welfare.

But the fact is we have to understand why, but more importantly, what we can do to minimize the deaths that these kids are experiencing.

So it is a real short conversation, but I'm asking for your assistance in helping me think, helping us think through this issue and where we need to go with the issues, and whether or not you know of something that can give us some guidance and direction about how to look at what we can do for these children.

**Commissioner Dreyfus:** Judge, this is Susan. Can I ask a question?

**Commissioner Martin:** Please.

**Commissioner Dreyfus:** This is one of those issues that is just so huge, right, and I appreciate kinship care. But I'm wondering, do we have any data on kids who have died from abuse and neglect that correlates to kinship? I mean, how do we drill down on that population of kids who are at high risk of death as it relates to disproportionality?

And that's the piece I think, the focus piece, is what's going to be critical. Otherwise, what you're tackling is just a massive issue.

**Commissioner Martin:** So I'm not necessarily saying that it's because of kinship care black kids die three times more than white kids. I'm saying the statistics say that black kids die three times more than white kids.

And all I'm saying is that in Cook County the majority of my kids are in kinship care, and that's -- wait, wait, and the majority -- I didn't mean to say wait wait, I apologize -- let me finish the thought.

Since the majority of my kids are black and grandmothers are coming and telling me that the services they're receiving when they have their grandbaby in their house as opposed to their nonrelative foster child, there's a difference in services.

And so all I'm saying, that leads me to believe that the difference in the quality and quantity of services or effectiveness of services has something to do with the level of three times the deaths for black kids. Or I'm asking, does it?

**Commissioner Dreyfus:** My question is, can our staff help with any of the data that would show that in Cook County, I appreciate that that's where kids are, but is that where the deaths are being experienced? Is it in kinship care?

**Chairman Sanders:** I think Commissioner Martin will correct me if this is wrong, that really the next step is going to be a conversation with Rachel and staff about what research is out there to begin to point to what we already know.

There may be some things that have already been done, we don't know what that universe is. I think that'll help us to inform us as we're moving forward, so that idea of looking at the research is the next step.

Commissioner Petit.

**Commissioner Petit:** Judge, I think I heard you say there's a difference in killings in kinship care or in foster care, that black kids die three times more than white kids, but it does need a qualifier of foster care kinship care.

Overall, black children die at triple the rate of white kids from abuse and neglect.

**Commissioner Martin:** Thank you for the correction.

**Commissioner Petit:** And that, of my part, is the disproportionality is not just in the death; it's a disproportionality of life conditions and resources and education and poverty and everything else that goes into explaining why there is such severe - some severe issues in so much of the black population.

It's a poorer population, I think, and whatever else, whatever else people would say on it. So the disproportionality exists not only on the death side but also on the living condition side, right?

**Commissioner Martin:** I'm not sure, because every kid that I have in foster care -- I'm telling you, if there's a rich kid -- to be honest if there's a white family that comes in Cook County, my office is on the eighth floor, I know before they get into the courtroom to go for a TC. If there's a rich family coming into Cook County, they don't go beyond a temporary custody.

So the majority of kids -- every kid in foster care in Cook County has the same risk factors. They're poor, they may be -- the majority are minority, their parents and caregivers have co-dependencies, mental health and substance abuse. The majority of my kids have some substance abuse that interferes with their life and their well-being and development.

There's trafficking for each segment of my population. So saying that black kids have these risk factors, I would suggest to you that all my kids in foster care have risk factors.

**Commissioner Petit:** Yes, all your kids have those risk factors, but I'm saying it happens more frequently in the black community because the conditions are worse in the black community and produces that kind of activity.

**Commissioner Martin:** I would suggest -- no, what I would suggest --

**Commissioner Petit:** How many white kids do you see?

**Commissioner Martin:** I'm sorry?

**Commissioner Petit:** How many white kids do you see?

**Commissioner Martin:** Well, see, that's an interesting question, because I've been the presiding judge of Cook County for 17 years and I will tell you for a fact that I thought all kids in the United States were black in foster care until I went to visit my dear friend down in South Carolina and I didn't see a black family come in the whole day.

So it is different communities.

**Commissioner Covington:** Could I make a recommendation that one thing, a couple ideas in terms of where to go towards the research on this is to look at infant mortality rates stratified by race and some other research on black women's infant mortality rates.

Because they've done some interesting work where they have basically accounted for everything but race, including income and what-have-you, and African American women still have higher infant mortality rates. And there's some interesting work tied to that around-- I guess you could call it the ACE's piece, but it's really, call it what you want, lifetime of racism.

People really believe it boils down to being born with and living with racism and what impact that has on infant mortality rates.

So that would be an area you might want to look at because it may lead you into some other pieces. I would actually also try to look at some of the ACE's work to see with families who grow up with a lot of pieces, not just poverty, but grow up with things like racism and what that means in terms of long term outcomes for them.

**Commissioner Zimmerman:** Thank you, Teri -- this is Marilyn Zimmerman -- for bringing up the issue of race, because I think the Indian Child Welfare Act was brought in, was passed by Congress specifically to address the racism that was prevalent among child welfare workers and judges who were sometimes misconstruing family and cultural ways for neglect or looking at issues of poverty as neglect.

Because really truly the disproportionality is so profound I think in many of the systems that serve our kids, whether it's child welfare or juvenile justice. If Alaska has 25 percent of the native children in that population but 60 percent are in the child welfare system, that can't be about, just about abuse and neglect. There have got to be other factors and not including poverty.

And I think for being a person of color and some of the research that I've seen or the comments that I've heard from tribal leaders and tribal community members is it's race based or racism-based.

**Commissioner Martin:** I think that we all talk about poverty is not a reason we take kids into care.

I don't know, but in my statute we specifically preclude taking kids into foster care because of poverty. But I will tell you for a fact -- and I'd like to say I'm a halfway decent judge -- but I will tell you for a fact that poverty plays a great deal in that courtroom each and every day.

And the way it comes down and the way it's articulated is support factors and protective factors. I don't have one coke baby from Northwestern Hospital. All my coke babies are from Stroger Hospital, the community hospital, and that can't be because all the women who come and deliver underweight pre, you know nine months, and higher than a kite, you know, are poor at Northwestern. It just can't be. Or they can't have more protective factors on overall than the kids -- the women that come in in Cook County.



**Commissioner Rodriguez:** I think I was just going to say that I also think -- I don't necessarily agree that the issue is actually that these families are so different from other families in terms of their risk factors, but what I do think is the case is that the agencies that -- the agencies and the organizations that are around to provide interventions and services really differ in their ability to actually support and provide effective interventions to different demographics.

The folks that live different from them, who have different backgrounds from them, and I mean, I've certainly seen it be the case with youth, that many of the interventions and the program, the agencies, they are biased. They do not actually know how to work with young people and they don't know how to get the ACEs or the trauma and how to really effectively support, and they're also harsher in their decision-making, their judgment, their ability to see strength, to develop protective factors that are important. And I think there's a lot of research in that area.

So I'm thinking maybe one place that might be important to go is to talk to some of the community-based groups who are really working with families in the community that are very grass roots kind of oriented, to talk with them about what their experience has been with working with agencies like mental health and substance abuse and domestic violence to effectively serve their families.

Like is there a difference when you're trying to get two families who, in terms of the issues they're experiencing, they present the same, but in terms of who they are, racially classed, they're different.

My experiences in working with a lot of families -- I mean, this is true for foster families and kinship families as well, is that the system doesn't know how to work with folks who don't look like them and who aren't similar.

And so there may be some additional prompting that's needed around prioritizing certain families where there are a lot of risk factors or helping -- I don't actually know what it is that you do that helps services along.

I think the things that I have seen that are most effective is actually empowering communities to develop their own services, much like you were talking about for Native American Indian and Alaskan Native populations, that some of them are communities who love and care about and see these families as part of their own fabric, that they do a better job of serving and working with.

I don't know. I don't have the solution, but I think that a lot of it is -- I would hesitate to focus this in on how are these families different.

I think a big part of it is how are agency responses different and missing the mark?

**Commissioner Dreyfus:** This is Susan. I agree with all of that. One of the things I just want to add is that I do think, and this was at work. I don't know if anyone remembers this. Maybe Tom does. It was down -- Chapel Hill did, a number of years ago, Mark Courtney uses this, "A child born into a household of four with an income of \$15,000 is 22 times more likely to be

maltreated than a child living in a household with an income of \$30,000." That's the exact quote. I know for sure because I use it all the time in speeches. It was research out of Chapel Hill.

And one of the things that the research really reminds us, though, is that they're very clear, poverty doesn't cause the maltreatment of children, but what they really talk about are the stresses, the stresses of those households and the intersection between those stresses and maltreatment.

And so I just don't want us to -- this is, again, back to that theory of the line contribution, and to be looking at the agency and what the agency is or isn't doing alone.

I think this is also where more of this multidisciplinary approach is going to be critical to shoring up those stress loads in those households that allow them to build these protective factors and keep their kids safe.

**Commissioner Zimmerman:** This is Marilyn. I agree with Jennifer also, but I want to remind everybody that most often in rural America it's not just that they look different, but in rural America they might be their neighbors, they might have grown up with them, but the poverty in the rural areas or the resources for prevention or early intervention don't exist because they're so isolated.

**Commissioner Martin:** The thing that Marilyn and I spoke about is not cultural competency as much as it is cultural engagement and I think that's different than competency.

I'm a black female and simply because I'm not Ethiopian does not mean that I can't treat an Ethiopian family that comes before me with respect to their culture, encourage them to make certain my child experience her culture.

I mean, think about my black kids who are in my white families. I still expect my white family to expose my black child to her culture. That doesn't mean I expect them to be able to take a test and know everything about black history, but I expect them to love that child enough to give them the foundational tools to appreciate their culture. That's what I'm saying.

You know, we're all family. So I'll just say it as plainly as I know how, because I don't know how to make it sound right. But I am not going to reraise an adult. I cannot take someone and make them not prejudiced, right.

So the thing I need to do is develop policies and procedures that afford the prejudiced person just like the nonprejudiced person to make good decisions for my families.

So one of the ways the National Council of Juvenile and Family Court Judges tried to address this was giving the judges a lot of training around implicit bias.

It's not that you intentionally are prejudiced, it's not that you are trying to be prejudiced, but all of us have grown up with biases, whether they're good, bad, or indifferent. And we can all think of them. If we took two minutes, we can all think of them.

When I do training, I always ask the audience, "Have you ever heard that black women have back?" And when I go south, all the white guys laugh and all that stuff, you know. But the point of it is, you know, have you ever heard that black women have big butts? Well, the reality of it is I have a big butt because I like Snickers. My sister runs marathons so she doesn't, right. So it's not all black women are aggressive, mad, angry people.

But that's a stereotype that our society perpetuates on all of us.

But I'm not saying a judge sitting -- and I'll pick on judges -- but I'm not saying that the judge who sits on the bench who believe that black women have big backs truly believe that, but they keep hearing it.

And so think about when an officer goes out on the street and investigates and his or her assumptions lap onto that family. Then those assumptions are transported to the workers.

The assumptions are then transported to the attorney, and when they come to court, what they tell me is, "Judge, this is a poor family that lives at 49th and Vincennes. When I looked in their refrigerator, they had nothing to eat." Rather than me taking the time and asking you, "How does that affect the risk factors for this 13-year-old that's different than the three-year-old," I automatically, as Tom said, I make a finding of reasonable efforts and I go on. So one example.

I asked every one of my judges after this intensive implicit bias training to ask at every court hearing at the end, "Why can't this kid go home today," and you would be amazed at how many times the social worker said, "Well, there's no real reason, other than we just don't feel comfortable today."

And I keep asking them -- I fell asleep in law school during evidence when they talked about the --

**Commissioner Covington:** Not comfortable.

**Commissioner Martin:** Right. The point I'm trying to make is some of those kids went home, not because I changed someone from being racist, not because I labeled them a racist, but I gave them one tool to use universal. And that's where I think we make progress.

I don't think I can reraise, no one can reraise me. And whatever biases I have, the idea is to help me understand that I'm biased, just like you are, and take my biases and hang them up in my chambers drawer, just like my trench coat. And when I make decisions about my kids, being devoid of bias, find a tool that I can use that gives me the best decisions for my kids.

The bottom line is I'm just asking, on behalf of Marilyn and I -- and I appreciate the recommendations that were given -- if anyone else has recommendations of how we can look at this issue.

**Chairman Sanders:** So I lost a bit on the shortness of this conversation because it's obviously one of tremendous interest. I think, going back to the comment that Dr. Horn made about some of the things that we know, and I think what's been most compelling and

I've heard Commissioner Martin mention this as well as Commissioner Zimmerman and all of us, that the rate, the fatality rate for children of color, particularly African American and American Indian children, and that is of concern.

And that one of our starting points is that it's going to be difficult for us to reduce or eliminate fatalities unless we address that.

So what is our knowledge base to begin to address that, I think is the first step, and then really looking further at how do we build that into our plan and recommendations as we're moving forward.

It certainly is going to be a driver of our work if the rate for African American children is three times the rate for the general population, and similarly the rate of fatalities for American Indian children is at a similar level.

It's an issue that we'll have to explore and hopefully come up with solutions on.

**Commissioner Martin:** Thank you.

**Chairman Sanders:** We're ready to adjourn for today, unless there's anything else that Commissioner Rubin or Commissioner Dreyfus, anything else you would like to add?

**Commissioner Rubin:** I would like to close and say for me an issue that's been close to my heart (inaudible) in particular, but I sort of see support for kinship and formal support for families as another one of those touchpoints in early childhood.

Clinically I always feel more comfortable when I know Grandma's got her eyes on the kids, and I always feel like families do a lot better job in terms of managing risk to the child. Not always, but often, as we do ourselves. And to the degree that we can support initiatives that ensure that a child is not isolated in a family where there's not (inaudible). I do believe we prevent fatalities. And so I do think that support for kinship families is one of those areas we want to strengthen if we're trying to make sure at a community level that no kids slip through the cracks.

**Chairman Sanders:** Thank you.

Commissioner Dreyfus, anything you have to add?

**Commissioner Dreyfus:** No, just a great meeting. I've really appreciated being with you all, and I wish I was there because it's going to be 15 below here with windchill tonight. So enjoy.

**Chairman Sanders:** Anything else that we have to cover today?

All right, we're adjourned and we'll be back tomorrow at 8:30. Thanks.

## **DAY 2: JANUARY 13, 2015**

**Chairman Sanders:** We're going to start off today's agenda with a continuation of yesterday's reports from the subcommittees, and the first one today is public health and that will be followed by military families.

**Commissioner Rubin:** Well, I'll get started here, and then, Susan, and, Teri, you can jump in.

**Chairman Sanders:** I don't believe Susan is on yet, but Commissioner Covington is here.

**Commissioner Rubin:** Basically, in terms of the public health subcommittee, I think we developed a work plan. We've been working with Hope, Hope Cooper and Sarah Zlotnik who have been staffing us for the Commission, and obviously Teri and Susan and I have been sort of doing the work.

I think our attention here is to kind of take a little wider lens of a population health approach to back up outside of just CPS, and that can -- the danger when you do that is you can get so big, that you lack the kind of focus.

And what we're trying to do is identify specific target areas across other programs that are not necessarily Child Protective Services that may have skin in the game for our issue around child neglect fatalities often on the regulatory, as opposed to the appropriation side.

But, for example, we actually have really distilled down that, you know, that there are a variety of touchpoints for kids across these other systems, but if we were to focus on the questions that we think are most important, one is the question of how the science prevention aligns the current state and federal policies and programs and how can we sort of understand the state of the evidence right now with respect to child abuse prevention and how that might inform our recommendations around eliminating child abuse neglect fatality.

And then the second question is to what extent the state and federal policies and programs currently address child abuse and neglect fatalities?

And when you look at these other programs that are outside child welfare, what is the overlap between those programs? How can prevention efforts be strengthened within those agencies and across the agencies at the state and federal levels to make sure they're actually working together.

We believe that the -- that, you know, focusing principally on those two questions, we're actually going to end up addressing the parts of the work plan that determines -- that looks at strategies that reduce child abuse and neglect fatalities promising prevention strategies, evidence-based practices or promising practices in public health, law enforcement, child welfare, judiciary, et cetera.

Are states or federal agencies using innovative and effective means to leverage funds across federal funding streams to reduce child abuse and neglect. And then what knowledge gaps exist that require more research.

And then finally, what is the alignment between research policy and practice. Those are all part of our work plan, and I think by going at those two guiding questions, we actually will end up there.

So, for example, like if we take the first question in determining, you know -- or looking at our subcommittee activities, the first thing we wanted to do was determine state and federal programs that often touch families where there was a child fatality and near fatality due to child abuse.

And we specifically wanted to examine the current approach of each program, the work between programs, and the vulnerabilities or opportunities within those programs to address this issue.

We have had a number of meetings. I think the most prominent meetings that stick out to us right now, we had a meeting with HRSA, and the idea behind these meetings is not so much to -- is basically to get these folks on board with what we're trying to achieve to identify who within those agencies could potentially (inaudible) some recommendations and some testimony sufficient, but ultimately is to bring these folks to you, as a full commission, to kind of -- by having given them some time to think through some of the issues to help inform some of the recommendations that would come back to us for a wider discussion in the group.

The meeting with HRSA in November 2014, they are the location for a lot of the home-based visiting activities in the federal government. Child injury data, emergency medical services, and then the Maternal and Child Health Block Grant, and led some very interesting sort of potential overlap with those Maternal and Child Health Block Grants and opportunities to think about how we might create some expectations around the Maternal and Child Health Block Grant that would include state plans for reducing child abuse and neglect fatalities.

So, to me, we first saw potential anchor for some activities that would be outside of Child Protective Services, per se, but could still be inclusive of CPS as part of that response at the state level.

We had a meeting with the Center for Disease Prevention and Control in December 2014, and they have some smaller grants that are out to a number of states right now around child abuse and neglect prevention.

But obviously, I think if I were to sum my takeaway from the meeting is their footprint is actually rather small, and we actually -- it was hard to understand their relationship to other areas of the federal government like HRSA, like HHS, in terms of how or if there's coordination on some of these activities.

There was a meeting with AFSME. That was a meeting just to start preparing to think about their relationship. This was within HHS.

We have a big meeting coming up at the end of January with the centers for Medicaid and Medicare services, particularly on the Medicaid side. I believe we're going to try to meet with Vicki Wachino who's taking over from Cindy Mann and some folks on her staff, to start thinking about their programs and where there are opportunities within the Medicaid program.

The goal there, again, to put together a briefing for us, a CMS briefing for us later on at the full commission.

We have meetings with ACF, SAMHSA, and OJJDP that are still being scheduled. So we're taking a pretty wide lens of programs.

And you know, our state work has also been informed as well where we've been putting together panels. We saw one in Vermont. I think we're going to see one in Oregon with some of the local public health activity. So we've had that sort of upstream prevention approach coming across several large state meetings.

Our second big area is to praise the strength and advocacy of existing prevention programs. And we've already started to touch on it with the domestic policy council, the (inaudible) based prevention strategy, an opportunity to align with that work.

We've started to touch on home visiting. We have some specific opportunities. One, David Willis who's at HRSA, runs the -- has been in charge of MIECHV and the draw-down of federal funds for the home visiting programs. I think there's a potential opportunity to have him come talk to the Commission as a whole.

I think there's a home visiting research network that meets as part of a large symposium in June that we may have an opportunity to overlap with there and potentially help them put together a panel for their work examining the issues around fatality prevention.

You can see the other day David Olds submitted some testimony to us around his own program, and I've actually had some more correspondence with David to try to push it to try to provide more guidance to us as well around some specific recommendations that could strengthen the response of home visiting programs, that they -- as they replicate.

But then there are other program developers that we might want to speak to, including folks who are involved with Triple P, Safe Care. I've been encouraging us to get Mark Chaffin to come who did a wonderful overview at a Casey event last year in Denver, and really takes a holistic view in terms of what can we say about the state of prevention.

And then finally, Susan and I met with Jack Shonkoff at the Center For The Developing Child. He had some very interesting suggestions for us about aligning practice and policy around starting to look at dual generation reimbursement strategies, where you can provide services for a parent through a child Medicaid. So I think we're kind of following that thread as well.

It's a little early for recommendations. I think we're starting to identify some anchors in terms of semantic areas, like I said, the HRSA and the Maternal and Child Health Block Grant, I thinking being important, some of the home visiting strategies and their overlap.

We're going to see where we end up within the Medicaid program, and then we're going to take a deeper dive into some of these prevention programs.

But those are good starting points for us, and with that, I'll stop for now and let people sort of discuss.

**Commissioner Dreyfus:** David, I've joined you now.

**Chairman Sanders:** Commissioner Dreyfus, anything you would like to add?

**Commissioner Dreyfus:** No, I think he handled it beautifully. I would just reiterate I think we all knew this was -- this piece was going to be a tough challenge for this mile wide, and I think it just focuses the attention that we're dealing with, an adaptive challenge; not just the technical -- short-term technical problem that needs technical fixes.

And I think looking at this through this lens of public health, I think really positions us differently than past commissions as a larger issue of public health in our country.

So the framing of it will matter, but I think the importance of it will be key to really getting underneath the cause of those fatalities.

**Chairman Sanders:** Commissioner Covington, is there anything you'd like to add?

**Commissioner Covington:** No, I'm good. Nice summary, David, thank you.

**Chairman Sanders:** Questions or comments, particularly about the direction of the subcommittee?

Commissioner Petit.

**Commissioner Petit:** David, thank you that was very good information oversight -- to you and the rest of the subcommittee.

I have a question about -- of all the things you guys have looked at so far, all the people you've talked to, are there any that have, in the specific sites, a reduction of child fatalities for abuse and neglect?

I know that when you look at the beginning, go back to 1900, you look at what the death rate was then for children and you look at it today, it's probably less than 5 percent. I mean, a huge change over that period. There were very targeted populations that they wanted to deal with specific techniques.

Are the people you're talking to focused on child fatalities, do any of them have initiatives that are -- and have any of them shown that they have anything that actually works in stopping fatalities from abuse and neglect?

**Commissioner Rubin:** Well, you know, I would say that I would put it in the promising category. I think although you could debate the merits of some of the data that we're reporting, long-term follow-up through let's say the nurse and family partnership, et cetera, they've actually had a peer-reviewed report that actually demonstrated a reduction in mortality played out over time.

We're actually seeing some elements, particularly for supervision-related deaths, in terms of our evaluation in Pennsylvania, although assault-related deaths, we're not seeing the same



reduction in the assault-related deaths. They may be a little bit different. But we're seeing a potentially significant reduction in supervision-related deaths in Pennsylvania.

So I think home visiting is a promising strategy and important touch point in terms of some of that work. So I would say yes on that side.

Now, you also have to realize that for these other programs, they're a little bit more proximal. So when you look at sort of Triple P or when you look at Safe Care, it's more around recidivism in the welfare system. And we think that's on the call, the pathway to-- particularly within the child welfare system - to potentially more serious forms of child abuse and neglect, then you're making a leap. Because they're not showing reduction in fatalities. They're a little bit more proximal.

Finally, I would add that I think that the anchor that we've identified is a little bit -- so those are the two promising areas. I have my thoughts, Michael, about what I've - the promising approaches, the two most promising approaches that I've seen in all of our testimony so far was the collective community response from Colorado Springs between the military and civilian authorities. So that was much more of a public health response and a coordinated response there that to me was pretty significant, if you believe that that coordinated approach actually worked.

And then finally, how they're using predictive analytics within the child welfare system in Tampa, but that's not the public health side. That was really within child welfare.

It is public health to the extent that -- I had a separate phone call with the Mindshare guys from Texas, at which they took the information they've used to help predict cases that are potentially falling through the cracks, including school district data and other more comprehensive data outside the child welfare system to identify kids who may start slipping through the cracks.

So those are what I would summarize as sort of the most promising things I've seen.

And then finally, anchor on the Maternal and Child Health Block Grant was the interesting one because we found out at that meeting that those states, I believe, were submitting reduction of child abuse neglect fatalities as part of the MCH block grant.

But if you anchored that kind of expectation around that grant, it would force states to look outside of just simply the child welfare system and think more as a community at large around what their collective response would be and we could potentially describe the elements that would be required there.

Some level of fatality is reviewed, some level of prevention efforts, some level of information sharing, and let states then draw back. I saw that as a very promising approach to actually forcing a larger discussion at the state level.

**Commissioner Dreyfus:** David, could I add in?

**Commissioner Rubin:** Yes.

**Commissioner Dreyfus:** So on the maternal child health side, I think it should remind the Commission of one other possibility for us, and that is to be looking at how Congress could put responsibility for this issue beyond the Children's Bureau.

I think the fact that we're not seeing in maternal child health is just a glaring example of where people have been so focused on the child welfare, quote/unquote, "function," that they've not looked at it from a larger system's perspective so that's one point I'd like to make.

The other two promising things that I've come across, and David and I have talked about, and I think I've shared some of this with you all in the past, one is actually here in Milwaukee with the Child Protection Center under Children's Hospital Wisconsin where they use the multidisciplinary process, not just on child death, but they identify those highest risk cases and they review so many of them every week.

And so the multidisciplinary team gets on, the case manager and supervisor present the case, and there is a full discussion that includes law enforcement and everyone is typically in the multidisciplinary review, but they have normalized this as part of that process to identify those high risk cases before a fatality occurs.

Something that I think, again, is there research on it? No. I'm sure if we really dug deep and asked Children's Hospital for the data on those cases that have been reviewed, we probably could get that because they did fatality results.

And then the last one is with the Children's Advocacy Center, and I came across this again because I was sitting down and interviewing the director of the Child Protection Center here in Wisconsin about this whole issue a number of months back.

And he shared with me in Oklahoma, they -- there was a private grant. It was not government dollars, but there was like a ten million dollar grant with Child Advocacy Center where every call that comes in from a doctor or a teacher that does not rise to the level of CPS investigation, they are sending community folks out on every call, just to check in, just to see how the family is doing, connect them to resources, see what they need. And they're dotting the "i"s as they do that process.

That has just started, but I thought it was an interesting role for a Child Advocacy Center to play on what would typically be screened-out calls from two really important reporters, doctors and teachers.

**Chairman Sanders:** Commissioner Bevan and then Commissioner Covington.

**Commissioner Bevan:** In looking at the progress recommendations from GAO, from the GAO report, which I know I seem fixated on but that's our latest information from 2011, when we had Kirk Heisler who testified, he said something very disturbing to me, to all of us, in that he reported that seven states were not reporting child fatalities, were not reporting fatalities at the child level. And 17 states were not reporting fatalities with children who were reunited with their families within the past five years.

But 22 states were not including child fatalities where family preservation services had been provided in the five years preceding the fatality.

Have you come across any kind of rationale for this or any-- have you explored this in any way, because it's concerning to me.

**Commissioner Rubin:** I think that that's where this sort of anchor on Maternity and Child Health Block Grant sort of started to turn in my mind.

It's an element of the state plan. I think the question I'm asking to you guys is should every state be required to have a plan around, whether it's infant mortality or child abuse neglect fatality.

And as part of that, the requirement that they would actually be required to report, at the child level, a death across the state. And yes, so we can define elements and not let states plan around elements, but that would be a way to address that glaring omission.

**Commissioner Petit:** I think, David, that that's a very, very good point in terms of the federal government providing the goal, the objective is to prevent infants from dying, to prevent children from being abused, and the states working within that parameter and using federal monies define what is the best strategy for them.

And that strategy is subject to review by other people.

But that's what allows individualistic approaches by the states to this adhering or in pursuit of a national goal, so I think that's a great idea.

**Chairman Sanders:** Commissioner Covington?

**Commissioner Covington:** Just a couple of things I'd add to what David and Susan had already said related to the federal government having anything specific in their work around the elimination of child maltreatment fatalities.

I don't think there's a lot of things there that are overt, but even though the CDC footprint is relatively small with the new projects they've launched in the communities, and it's really, really early, and I think there's some real promising work going on there because it is focused around prevention of maltreatment.

**Chairman Sanders:** Essentials of childhood, is that what you're thinking?

**Commissioner Covington:** Yeah, and the grants they've given to five communities, I think five states. It's way too early to make any kind of, you know, assessment of how those are going, but they seem to me to fit within the model that we're sort of thinking is a positive one.

And the other thing is in terms of Maternal and Child Health Block Grant there was a good study that was done three, four years ago, maybe not even that long ago, where the Children's Safety Network had a grant from the CDC and they surveyed or assessed the Title V Maternal and Child health directors around the country in terms of what their role is in child maltreatment, child maltreatment prevention, and child maltreatment fatality prevention.

And it was really limited, even though some of them had specific block grant goals and objectives around the prevention of childhood injuries, not necessarily maltreatment.

But what was most interesting was the outcome of that was the interest, the high level of interest across the board and among the directors in terms of being more engaged with child welfare as a prevention partner rather than - I think they clearly understood the role of child welfare agencies in their own states as responding to maltreatment. But they really wanted to be more engaged in the prevention piece. So it's something I think we should be exploring.

**Chairman Sanders:** Commissioner Petit?

**Commissioner Petit:** Well, first, the child welfare agencies exist not to promote child well-being but to protect children from harm. They're an absolutely reactive system.

And Maternal and Child Health is proactively meant to promote child well-being. Just a look at history here, until 1981, Maternal and Child Health was an entitlement program.

It was converted to a block grant in 1981. At the time they did that it was worth about \$600 million. Today it's worth not much more than \$600 million.

I think it's not much more than the \$600 million than it was in 1981. Part of the issue here, and, David Rubin, you mentioned Texas, we just got something yesterday that said Texas failed to report about 600 -- was that the number, Tom, 600 child fatalities?

**Mr. Morton:** About 670.

**Commissioner Petit:** 670 child fatalities that somehow didn't end up being disclosed to the public, while we were in Texas, listening to how child fatalities had dropped by 30, 40 percent.

In Texas where Maternal and Child Health Services are meant to promote child well-being as they are around the country, something like 40 percent of newborns in Texas experience little, late, or no prenatal care, 40 percent. In Texas, that's 40 percent of 400,000. That's 160,000 kids late, little, or no prenatal care.

David have you guys looked at the potential within the Affordable Care Act? The Affordable Care Act pays for home visiting. It greatly expands substance abuse treatment and it greatly expands mental health services. Three things, home visiting, mental health, and substance abuse that we think the research shows are critical in addressing problems of child abuse and neglect.

It's already been funded by the federal government, it's a hundred percent free to the states. Have you guys looked specifically at which states are taking advantage of that and how they're taking advantage of that?

**Commissioner Rubin:** Michael, that'll be the subject of our CMS meeting. When I talk about dual generation strategies and reimbursement that gets to some of the Medicaid expansion that you're talking about.

But in terms of the responsibility within Medicaid programs to track kids who are, let's say, not having any care or literally falling off the radar or having multiple injuries in the first year of life, et cetera, those are going to be conversations we're going to start with as we kind of dig into the CMF.

But I think that's a totally appropriate space for us to be in.

**Commissioner Petit:** But I asked either Deidra or Cassie or anyone else if they know the answer to this thing. In the passage of the Affordable Care Act, which we all know is a controversial measure and we all know is still before the Supreme Court and we all know that some people want to repeal it, some people want to strengthen it.

But specifically on the section pertaining to home visiting, mental health, and substance abuse, could there be -- was there any discussion about carving out that piece that pertained to children? Could there be, would there be, is there any discussion of that?

Was there any discussion of it in the debate, discussion of the bill?

**Commissioner Bevan:** We know there was discussion because we know the President included specifically the \$600 million for home visiting.

I assume that there is permissible allowance under the Care Act -- correct me if I'm wrong-- but that we could do a lot more in terms of identifying kids and providing services early on.

**Commissioner Petit:** It's very small number. I mean, the kid part, the dollars that go to what we're talking about are relatively very small in comparison to nursing homes and disabilities.

But Deidra, what is your view on that?

**Ms. Spires:** In answer to your question, Commissioner Petit, Commissioner Bevan is correct. There was conversation about how do we address the needs of kids and how do we do some preventive services with poor kids.

In the Affordable Care Act, home visiting was originally proposed to be a part of the administration of children and families.

And to your comments about a reactive system compared to a proactive system, the choice was made by then Chairman Max Baucus to move to HRSA, the home visiting program for that very reason. He wanted something proactive and preventative.

I just want to make sure I get the specifics of your question. So yes, the conversation was had. Yes, there's room, and then to a comment of Commissioner Rubin, in doing that work around home visiting, we did add requirements for states in order to draw-down their Maternal and Child Health Block Grant, we added components to their needs assessment in order to do the home visiting work. So there's precedent for making these kinds of additions to the block grant with some sensitivity around the state burden. So we made sure we added to an already existing needs assessment.

**Commissioner Petit:** Deidra, what about the MH and substance abuse pieces, could they be carved out? A bunch of states have rejected any Medicaid expansion. I understand that.

But my guess is if you said, "Well, do an ala carte thing," which I understand the politics of why you wouldn't want to be able to do that.

But if you introduce an ala carte notion to it, you could say, well, they don't have to expand all Medicaid, they could expand the part of Medicaid that deals with this urgent situation facing children who are being killed.

**Ms. Spires:** All things are possible. I'm not quite sure about the climate for that but it's quite a possibility. I think in some ways I would defer to Commissioner Bevan about the real climate and the appetite for that right now. It is entirely possible and I think there's a conversation to be had around that space.

**Commissioner Petit:** If the case hasn't been made yet, then I'd say the climate, even if it's initially resistant, I mean, if there's a case to be made, let the case be made.

**Ms. Spires:** There is a case to be made.

**Chairman Sanders:** Commissioner Dreyfus, were you trying to get in?

**Commissioner Dreyfus:** Yes, this is Commissioner Dreyfus.

I want to put my past Medicaid hat here from a state level and try to have this conversation with Michael, because I think he's onto something fabulous. But there are a couple realities I always faced when I had Medicaid responsibility and trying to make the system more preventative, especially to attach these first 2,000 days of life of children into the Medicaid system.

There's really two issues that I think we also have to understand.

One is what are mandatory and what are optional services for states. As much as it would pain all of us, when you look at what are the mandatory Medicaid services that the federal government requires, everything we're talking about here today is nowhere to be found on that list.

And so when you are a governor and you are facing tight budget times and you're trying to squeeze the [inaudible] of your Medicaid budget, you are dealing in one- or two-year budget cycles from an actuarial standpoint.

And every time I would send out these great ideas, they'd go out to the actuaries and they would come back and they would say, "Can't do it. It's going to cost money." And I was in a very much more liberal state, but there was no way in hell my governor was going to be increasing Medicaid at a time when she was trying to gain control over that budget.

So just two realities, mandatory optional Medicaid benefits, what's on the list, what's not; and the second is when you're dealing with state budgets, and this remains optional for states and

you're dealing with either one-year or two-year budget cycles, that's how actuaries are scoring.

And that really has a significant impact on everything Commissioner Petit was just talking about.

**Commissioner Petit:** That's true, and when I was the administrator for the Medicaid program for eight years in the state of Maine, we repeatedly did the process you just described and our governor and legislature said let's do it.

So I know it's different from state-to-state, and that's one of the reasons why Congress debates these things. But the response by the state was different, and in our case if it meant taxes or taking programs -- taking resources from other places in order to fund children, it happened.

So I think it varies from state-to-state.

**Commissioner Dreyfus:** That's wonderful, but I would just tell you that when you're dealing with incredible state budget crises and Medicaid is an increasing part of that state budget, I'm just saying I just think if we were going to have a real influence on this and want something to be more consistent across the country, the issue is, is there not enough science that now sits underneath why Congress should be rethinking how CMS is looking at what is on that mandatory service list. That's my only real point.

**Commissioner Petit:** Part of this, and, David, I don't know -- David Rubin, I don't know if this is something you're getting, is there science at this point that shows a relationship between curbing substance abuse, curbing mental illness or treating it and a reduction in child abuse neglect, specifically child fatalities?

**Commissioner Dreyfus:** I wouldn't say there is on fatalities. That wasn't my point. I think where the science is really clear is how important the investment is to our nation's human development in those first years.

I wouldn't go so far as to say that there's science specifically around reducing child fatalities. Nobody has really focused on it. But I do think the science is there about the importance of those first 2,000 days in the development of a child.

**Commissioner Petit:** I agree. And all I'm saying is that we know that mental health and substance abuse are frequently associated with many of those situations. And I'm just asking now if the Feds have done any research that shows a cause and effect relationship between introducing mental health and substance abuse and a subsequent reduction in maltreatment.

**Commissioner Rubin:** I think that's an interesting question, Mike.

I think that that one I put in the area of -- you know, I think when we start to think about what are the types of research that people need to know, I think there are some links there that are pretty large links.

I don't think that data exists specifically that you asked for, but there's also going to be a need for future research here and that would fall into that category.

To me, that's where you sort of -- you weigh -- if we were to, let's say, make -- if we follow this through, if we were to make a recommendation that all states have some level of requirement to develop a state plan to the Maternal and Child Block Grant expectations around reduction in child fatality, the criteria - the elements that we would include would be those things we hold dear and true as to key components.

That would not prohibit a state from making a deep investment into substance abuse treatment if they thought that was the strategy. It's just that we wouldn't put that as the requirement for them, and we'd give them flexibility to determine their approach that they want for their state.

**Commissioner Covington:** David or Susan --

**Chairman Sanders:** I think -- Hope?

**Ms. Cooper:** I just wanted to make a comment. There's a discussion around Medicaid and the entitlement benefit, and Dr. Rubin mentioned we have a meeting scheduled with the Medicaid agency coming up. We've got a whole number of questions prepared for them around the Medicaid program, and we've been talking to other Medicaid folks to prepare for this, too, try to identify those levers within the program that may be ones we can draw on.

The ACA also has other funding streams, like an innovation center within CMS to test, evaluate, and expand payment structures and methodologies to get to different outcomes.

So we've been sort of encouraged to look at some of these other funding streams that are more about innovation and testing. But there's quite a bit of funds there.

I don't think that people have sort of conceptualized, or the concept of what we're working on hasn't been put before some of these agencies that are really tasked to think innovatively about how to use current financing streams to get to certain outcomes.

So I think we have some real opportunity, maybe not immediately through the Medicaid program, but maybe through some of these other testing venues, and that has to go - and there's a prevention fund within the ACA, too, and again we've been told this type of prevention outcome is not on their radar.

But as we initiate these conversations within CMS, hopefully we can get some traction on these discussions.

**Chairman Sanders:** Commissioner Covington?

**Commissioner Covington:** The other thing is I wasn't on the call with Jack Shonkoff, but the whole concept around dual reimbursements is something that I think we're going to try to put a little more meat to and bring forward which would be another really innovative structure in terms of trying to think how to fund families rather than individual children.



**Chairman Sanders:** Commissioner Petit?

**Commissioner Petit:** About 20 years ago I met with what was the full leadership of NIAAA, the National Institute on Alcohol, and at that time I inquired of them what research they had had on the relationships between substance abuse and child abuse, child maltreatment; and to my surprise, and eventually to their surprise, they had virtually no research on it whatsoever.

So, Hope, when you're over there in a few weeks, ask them if in the intervening 20 years there has been any research. Do they have a body of research at NIAAA that deals with the question of substance abuse -- of child abuse.

Has anybody here offhand -- David Rubin, Susan, or anyone else?

**Commissioner Rubin:** At the SAMHSA meeting --

**Chairman Sanders:** Go ahead, Commissioner Martin.

**Commissioner Martin:** One of the issues I'd ask you to consider, and I don't know if it's different, so all the questions that Commissioner Petit put to us about whether or not there's studies that draw a direct connection between substance abuse and maltreatment, child maltreatment, in my realm, I'm not just seeing substance abuse anymore. I'm seeing co-dependency.

So there's mental health issues and substance abuse, and the idea about trying to self-medicate, and so I don't know if those questions are different.

The reason I bring it up, if it's not just substance abuse and it also involves mental health, are those questions different?

And so if you're going to ask someone about the research, I would also ask you or encourage you to think about asking for codependences, is it different, so I'm just adding that.

**Commissioner Zimmerman:** I just need a little bit of clarification. This is Commissioner Zimmerman. Are you saying co-occurring or codependent?

**Commissioner Martin:** Co-occurring, yes. I apologize. Thank you.

**Commissioner Dreyfus:** This is Susan. I would like to make a comment. It's an interesting kind of twist on all of this, I guess, that makes it a little bit more complicated. I know we always assume that if someone is using substances, they need treatment.

When I was out in Washington State, University of Washington, they always had seminars that they would put on, they bring in researchers from around the country, specifically on the topic of child welfare.

And I'm sure we could get the video of it, if people are interested, but it was a Dr. Steve Ondersma from the University of Michigan, and he presented on child welfare and substance abuse.

He really turned on its ear what is our typical practice in child welfare. Where we typically go into a home, mom is using. We look at mom and we say, "Okay, we're taking your kids out of the house. They're going to go in with grandma. They're going to go into foster care and you need to go into treatment. And once you're clean and sober then we'll start talking about getting your kids back."

When he implemented parent child interactive therapy in combination with motivational interviewing, I kid you not, 50 percent of the women did not need treatment. They needed positive interaction and positive serve and return with their child, and that underneath that substance use was more around stress and trauma and inability to cope.

And when implemented, PCI, with motivational interviewing, treatment was not needed. So I think we always make a jump that it's always about treatment. Again, I know it makes this conversation more complicated, but that has always stuck with me in how we look at substance abuse and parents.

**Commissioner Martin:** This is Commissioner Martin again.

I think I hear what you're saying. There has been a great deal of literature and research around infant and toddler programs with mom where mom goes into a residential treatment facility, but that focus is not just on substance abuse treatment but also parenting and the other skills.

And they've made great success, and it has come out that it's not the substance abuse, necessarily, that's hindering the parenting, but the stresses all around substance abuse, parenting, living conditions, poverty, and all those risk factors that we constantly talk about.

The thing about those programs, and there's been a great deal of success shown with those programs, again, they haven't done any research on fathers. And in Cook County, I have not one bed in one of those programs for fathers.

So the point I'm making is when you ask Medicaid about these questions, make your questions as inclusive as you can of all these different elements that have not necessarily been included in the research that we currently are aware of.

**Chairman Sanders:** Susan and David and Teri, I have a series of questions and comments, some that follow up on what we just talked about and one at the end that I'd like your thoughts on.

The first is that it seems that the comments that you've made, David, about children falling through the cracks and that being one of the issues that we need to address, and,

Susan, your concerns about the response system and the single responsive child protection.

It sounds like what you've put together with these two questions and the framework will address those and that that seems to make a lot of sense.

One question that I have is about family preservation and family support. Because they are currently funded through 4B, that's one of the areas we've been asked to look at, and in response to the question about are there things that we know that work, we didn't hear anything related to family support or family preservation.

Are we at a point of saying that those do not work to support reduction of later fatalities for children?

**Commissioner Rubin:** David, we saw that as within child welfare response, but we have not looked at family preservation. So our lack of commentary on that really just reflects the scope of where we've been looking.

**Chairman Sanders:** So policy is looking at that?

**Commissioner Petit:** And CPS is looking at it, as a mode of intervention. Of course, the term no longer has much precision to it in terms of what it means. So that's problematic as well.

**Chairman Sanders:** So we'll be able to speak to the four programs that are funded out of 4B --

**Commissioner Bevan:** We're particularly concerned with policy because we remember how the 4B services were divided up in terms of the time limited family reunification, family support, family preservation, and post adoption services.

The split, making it a quarter for each, was arbitrary and a concern is what -- given the fact that there's a very limited part of money for services, we want to examine every single one of those services to make sure. One, if that is no longer realistic, the quartering up of that money, and two, what's working and what's not working.

**Chairman Sanders:** The -- kind of a follow-along, is that this issue of research and evaluation seems a theme that we have very little information or we have information that doesn't indicate what we're doing is working. And Hope mentioned the innovation center.

And I guess this is for both welfare policy for child protection and for public health.

How do we build the knowledge base that we apparently are lacking? Are there themes that cut across? Should we look at that separately? How do we think about this issue of needing to have research or some type of evaluation going forward to better support the money that's being spent?

**Commissioner Bevan:** In the policy committee we're looking specifically at the group both at Brookings and at the evidence-based programs, and they have looked at home visiting and triple P, but they also have a classification system that looks at what do we really call evidence-based? What is really not evidence-based, but there's a strong correlation or people really like that program and feel like it works.

There's three categories.

We are going to look at that and also will figure out a way of fashioning, including -- which Congress has not been doing -- but including evaluation components in terms of the

implementation and the outcome; not how many people were served by the program, but the outcome.

Did we reduce or eliminate child fatalities, and see if we should be including that in more of the programs that already exist.

**Commissioner Petit:** It would be great if everything was evaluated and people had sought to do it at the time that these programs were conceived.

But it's no less or more true in child welfare than it is in agriculture, defense, or any number of other things that are going on. So I don't think there is, at this point, a lot of research on the things that we're concerned about, but it does seem to me that the federal government should be a repository of this stuff, either through its contracting out with universities or institutes, whomever it is, but when it all comes together, that's the place where it comes together.

If you take a look at some of the stuff already, the child welfare information gateway, for example, which is the federal website for child welfare, there's an enormous, enormous body of information that's contained therein. And we know right as we're speaking, the Children's Bureau has a huge contract that it's let out to tie a lot of this stuff together.

I think it would be useful for us to actually know what it is that they plan to do in that area. It replaces the ten national resource centers with something much bigger and more ambitious. It's work in progress.

If we're held to a different standard than these other programs, if these kids' programs are held to a different standard, that would be unfair and unreasonable.

**Chairman Sanders:** And I guess as much what I'm suggesting, is it seems that we've heard this theme for the last eight months, and that it probably needs to be part of our direction and report, then, that how do we build that knowledge base, knowing it hasn't happened.

I mean not necessarily choosing everything as we move forward, based on the evidence that exists. Because it doesn't exist for many of these things.

But in five years, it would be great if there was a much stronger evidence base that we could speak to.

**Commissioner Petit:** I would just say that we went to the previous administrator in the Children's Bureau, whatever, who -- we went in with a child abuse, the National Child Abuse Coalition that preceded this kind of effort. And in it they were served up a half a dozen or so research proposals on the impact on child abuse. All of them were rejected. To my knowledge, unless somebody knows otherwise, I don't believe there is any active research going on at the federal level right now on child fatalities, is there?

**Commissioner Covington:** For example, the CDC has funded the evaluation of the purple, The Period of PURPLE Crying. So they fund some research, and those are research dollars to the office of the injury and violence. But they're not great. I mean, they're not huge dollars. But

they are focused specifically on fatalities for maltreatment, for shaken baby, which would be fatalities.

**Dr. Berger:** The Period of Purple Crying is funded under their primary prevention program as opposed to under their specific child maltreatment.

**Commissioner Covington:** Right, but it's still focused towards maltreatment. So there is some stuff going on.

**Commissioner Petit:** It's more in comparison to the -

**Chairman Sanders:** I still have a few more comments.

But, Commissioner Martin?

**Commissioner Martin:** I want to follow up on what Commissioner Sanders said, or what I heard you say or I think I heard you say, about whether or not there's some place in our report to point this out and suggest that the Feds, when they give money for programs, that they make certain there's a research component in it.

If we don't have the body of literature and research that we feel is important or necessary, then why isn't there some requirement? Quite honestly, I thought there was, but why is there not some specific requirement that when you receive federal dollars for programs and grants, that you actually have the research component?

I mean, in the state of Illinois when we hand out CIP dollars, it's all -- you have to show that it's -- you can replicate it, you have to show some evaluation tool component to it.

So it doesn't make sense to keep going year and year and year without having it.

**Chairman Sanders:** Commissioner Rodriguez?

**Commissioner Rodriguez:** Well, I just wanted to say that I really think this is important, and to me the issue is not whether these programs are held to a different standard than other programs. To me, the critical question is, do they work to help families and to keep kids safe?

And I mean I think that there are -- it may be true that in agriculture and defense there's also a lot of experimentation or we just think this works.

But to me it feels like just about everything in child welfare is somebody's idea about a program that sounds like it might be interesting, or, you know, some evolution.

And I mean, the problem with that is, of course, that when you're talking about a child's health or life or safety, it becomes even more critical than anything else to figure out.

Are we expending dollars in the right place or should we be going down a completely different path?

So I mean, I think some of it is also just the framing of it. I know I personally want to know what is helpful. What's helpful to families? What's helpful to kids? And I'm frustrated when I hear people say, "We don't know. We just do all this stuff out there with the most vulnerable families and we keep on doing it because it makes us feel good as professionals or because we get praise and it sounds like it's" -- I think it's really important even if -- I wouldn't want to dampen people's efforts to be creative by putting really prohibitive research and evaluation requirements necessarily anytime we give out federal grants.

But if there's some way we can think about how do we build the really rigorous research base that's necessary to figure out what are the issues, what can we do to actually intervene and help, I think that might be one of the most important things that we can do moving forward.

**Dr. Berger:** You just raised a really, really important issue as it relates to child abuse-related research. And there's two big issues.

One is you're absolutely right, that in most research projects, and I said to Amy yesterday, 25 percent of your budget should be related to evaluation. And we don't - for some reason that kind of gets overlooked in child abuse research. But in all of the research that the MIH, for example funds -- and people will say that's the highest level of research -- the expectation is 25 percent. And if you went to 35, they wouldn't bat an eye, but if you went below 25, they say, "You're not spending nearly enough money on evaluation."

But the other really critical issue is that there are so many ethical concerns that people have about research in vulnerable populations. This is a much -- it's an issue that child abuse is kind of under. I mean, prison population are other ones.

But this gets hit really, really hard, and it's not really-- it's almost like there needs to be someone in the child abuse field. And people have tried. Alex Levin actually had a conference about eight years ago addressing child abuse related research.

And long story short, it was a two-day conference. They still have not published what came out of it, although they're working on it, because there is so much pushback.

And people -- and I said at one point, I said our group had put in a grant for an intervention and despite four ethicists saying this is totally ethical, the NIH said, "We're not ready for an intervention study with children who are abused," because they felt the parents could not consent even though all the ethicists said it was okay.

I think there are a lot of issues here that prevent what you're saying, but I absolutely agree there should not be a different bar. If anything, that's biased against these children because they don't get the highest quality of evidence. But this is a huge research related issue.

**Chairman Sanders:** Commissioner Covington.

**Commissioner Covington:** Well, I was going to say, to my knowledge, NIH or NICHD don't fund any work currently on maltreatment prevention services. I don't think it's part of their portfolio.

**Dr. Berger:** My RO1 is only -- it's a secondary prevention program, and the only reason it's funded is because it's through critical care. So it kind of snuck in through critical care and rehabilitation.

But you're absolutely right, there's almost no child abuse. There's animals, they still do some animal modeling, but it doesn't fit in well because it doesn't match some of the research standards that are acceptable in other fields.

So I kind of was able to sneak it in, and Joanne Wood also has a training grant, but it's a training grant. So that's different, because that's about training her and their research, but there's almost nothing.

**Commissioner Covington:** One thing we might want to do is a conversation with NICHD about how you can start building a research portfolio around maltreatment prevention -- oh, we are commissioned in terms of making some recommendations.

**Chairman Sanders:** I was thinking of one of the subcommittees.

Commissioner Rubin?

**Commissioner Rubin:** Yeah, I would be careful. I'm not sure it's fair to say that NIH is not funded. I would look at -- you have to look at programs like Triple P, programs like Medicare. I believe that there's federal money behind those. But do they have an organized portfolio? Probably not.

But I would be careful to just assume that there hasn't been an NIH investment around child abuse prevention programs.

Certainly a lot of it is their home visiting, there's been home visiting dollars that have come out of NIH. So I would be careful to make that statement.

**Commissioner Dreyfus:** Can I chime in here, if I could?

**Chairman Sanders:** Go ahead, Commissioner Dreyfus.

**Commissioner Dreyfus:** Yesterday I brought this up and I think it fits here with this conversation. So I just remind everybody again if they're looking at quote, unquote, "the child welfare agency," right now there's no -- there's no funding for research. Because I think there's a real dependency on the CFSR process around quote, unquote, outcomes. But there's no real research dollars for the child welfare agency in terms of its practice.

And in this whole conversation we have yet to have brought up the issue of child welfare finance reform because it's coinciding the work of this Commission -- could potentially coincide with the work of the Commission.

Some proposals do talk about needing a dedicated source of funds, dedicated to research that has to be used for research.

So I just want to put that back on the table, Chairman Sanders, as relates to when the Commission might talk about finance reform, the potential connection to our work and recommendation.

**Chairman Sanders:** Commissioner Zimmerman?

**Commissioner Zimmerman:** I don't know how appropriate it is to have this conversation now, but I do know that some of the work we do is community-based participatory research, which NIH is beginning to move a little bit on, just a little bit.

So that the concerns about how the parents would never sign consent forms for is the use of community or sentinel reporters, I think around -- particularly some work has been done in Washington State around adverse child events in the lives of children.

And these are not done by children actually being interviewed. It's rather the sentinels, the teachers, or the childcare workers, or the community members that are aware of their history.

So I think that that's one different way that I agree with you.

One of the things is we don't know if a lot of things work. They just sound like they might work because of the information that we have over the years, but the other piece is that many, many communities in rural America sometimes don't have the capacity to do the kind of evaluation for the programs or to initiate an evidence-based treatment model or support for parents.

So we, for example, in the work that we do in trauma, childhood trauma, is we, instead of saying evidence-based, we talk about trauma-informed. Is this a trauma-informed practice?

Can the child welfare workers understand the impact of exposure to violence on the generations of the families and that sort of thing?

I agree, we need to know it works, but I would caution us to be careful on burdening those communities that don't have the capacity.

**Chairman Sanders:** Just a couple of comments. One on the content, but the second probably more relevant on the process.

So Commissioner Dreyfus raised an issue, and I think I heard this before from Commissioner Petit, that the mechanism that's used, at least for child welfare agencies in accountability, is the CFSR in looking at not necessarily formal research but evaluation of success and improving outcomes.

And unless somebody can correct me on this, and I don't know, Hope, if you're aware, but CFSRs don't look at child fatalities. So they look at recurrence of maltreatment, which is one of the reasons why I raised it yesterday.

So we don't have, even, the oversight around an organizational effectiveness on impact in child fatalities. So there's no beginning baseline to say this is where things are and this is



what's happening, this is what's working. So I just would make that comment, and it seems that we need to think about that.

The process piece, which is probably more relevant, is that I raise this in part because of family present, family support, that those are - we have been directed to look at Title 4 as a funding mechanism and whether things are working or not. And in this conversation it would have been great to hear we have five family support models across the country; that to your question, Michael, that seemed to impact how fatalities, and we don't have that in information right now.

So part of my question was about that, but I think the process question is who should -- what subcommittee should be looking at it, and it sounds like that policy will do that and that we're finding that policy is going to look at this issue of research evaluation for including the programs that are directly under the purview of the congressional charge as well as potentially others.

Is there any concern about that?

**Commissioner Covington:** Well, I think the subcommittee on the public health approach has been looking at it from policies and research that looks at evidence-based interventions -

**Chairman Sanders:** I was thinking specifically of Title 4, because that's part of our terms. I just want to make sure.

**Commissioner Martin:** That sounds like the right place.

**Chairman Sanders:** I had a change in subjects. So was there something else you wanted to add?

**Commissioner Martin:** The one thing, I wanted to follow up with what Commissioner Zimmerman was talking about trauma-informed.

So when you talk about trauma-informed practices, are you looking -- is there any kind of "evaluation," in quotes, that it actually reduced trauma? You know what I'm saying? As opposed to the program itself is addressing trauma, right.

**Commissioner Zimmerman:** You're wondering if the model we're using actually addresses trauma?

**Commissioner Martin:** Reduces trauma.

**Commissioner Zimmerman:** Reduces trauma. We're still evaluating that.

**Commissioner Martin:** That's all.

**Chairman Sanders:** So an associated kind of issue that again it seems we need to look at, and I think I've heard this in almost every state that we've visited, if not all of them, as well as from the subcommittee reports, is that in child welfare there doesn't appear to be any mechanism to actually spread good practice. And so even if something is identified as

working, let's say, in the court, there isn't a formal mechanism to spread that. And I think the comments about the changes within ACF related to the resource centers, it seems that's an issue that we need to look at. Where should that rest?

Because if we can't address that, it almost makes no difference if we are able to identify a program that works, if there isn't a mechanism to actually spread it beyond one or two jurisdictions.

**Commissioner Martin:** David, I would add to that, spread it not to just child welfare, but the whole system that we're talking about. Because if you only give it to one arm, you only give it to child protection agencies and not to the rest, you failed the purpose. It still doesn't get to the whole system.

**Chairman Sanders:** And I think -- and Dr. Rubin or Commissioner Dreyfus may be in a better position, or Commissioner Covington, to answer this, but it seems part of that also depends on the discipline. Because it seems that in medicine there may be more ability to spread things more quickly than the courts or child welfare.

So kind of thinking about the system gets a little more complicated, but it seems that, as we come up with our series of recommendations, we're going to have to have some way that if things that are identified that work and we put evaluation or research behind it, that it can go beyond the two or three jurisdictions that are implemented.

**Commissioner Rubin:** Can I say something?

**Chairman Sanders:** Commissioner Rubin, you cut out.

**Commissioner Rubin:** Can I say something?

**Chairman Sanders:** Go ahead.

**Commissioner Rubin:** I'll admit to you guys freely that as much as I'm a researcher and I care about prevention programs, I frankly am not sure we're going to reach a level of evidentiary base to make recommendations for universal prevention, per se. I think we're going to list a number of programs.

I'm taking much more a view on the public health side, eyes on the job. There are a lot of folks that have eyes on the child. We don't coordinate well with each other. So how do these systems coordinate?

I think if I were thinking of elements of the state plan, it would include some level of how do you coordinate across systems, a plan for how you would invest in the prevention programs that make the most sense, given your local context; that you have a variety of programs you could choose from for adults, for kids, for families, substance abuse, mental health, et cetera.

But to me, I still see that fabric, community fabric, that the touch points are your family. So we talked about kinship care yesterday, you have touch point of your pediatrician or family

doctor or nurse to take care of you. You have WIC. You have a variety -- you have your home visiting program that might be involved in your community.

And that our job is to create expectations beyond child welfare for how they're going to coordinate this to ensure that the threads of all those contacts are tightened up so the likelihood that a kid who is locked in the closet dies is less, the likelihood of someone who's coming off the rails to kill their family, that someone identifies that and tries to seek help for that family before it happens.

I'm taking a much more pragmatic approach rather than focusing on a magic bullet or a program that we think is going to be the one.

**Commissioner Dreyfus:** Commission Sanders, to your point about what's needed to identify and spread what we know to be better practices -- and I really appreciate Judge Martin's comment about we've got to understand what the system is and I hope this commission will really articulate clearly to Congress and the President a larger definition of the child welfare system.

If I go back to Commissioner Covington's presentation yesterday, I'm wondering is there not potentially an opportunity with the entity that she recommended that there be, as it relates to the multi, the death review process, and kind of putting a CQI loop into that, is there any way -- because again, we're like a needle in a haystack, we're just about eliminating child fatalities.

Is there any way for that to become part of the CQI mechanism that isn't just focused on the child fatality review process and what the findings are of that itself, but also at what seems to be rising up and starting to prevent fatalities within communities from the standpoint of elevating and spreading.

Is there any connection we could make with that to the issue you're raising?

**Chairman Sanders:** Commissioner Covington?

**Commissioner Covington:** I think we talked yesterday presenting the multidisciplinary review as a way to count the numbers, but there's other purposes for the reviews, one of which is they do serve as the CQI function and the other one is they help to try to identify key risk factors and protective factors and families and communities to try to prevent the deaths as well.

They're just not meeting and doing their reviews for counting.

**Commissioner Dreyfus:** I know that. But could we potentially expand in where it's similar to where all of a sudden there's monitoring going on and there are places in the country where there's just no fatalities happening or there's clearly a reduction that's happening?

If we have better reporting, that might kick in not only the CQI that's coming out of the death reviews themselves, but as part of that CQI, the identification of these best and better practices and promising practices.

**Commissioner Covington:** Right. Try to capture that through some of these processes.

**Commissioner Petit:** We haven't been seeing many of those practices that are actually producing the kinds of results and outcomes that we want, and we were just discussing the multidisciplinary team again after children had died. And I keep returning to looking at the multidisciplinary team before children have died.

And David's pragmatic, I would echo, approach to this thing, part of what we're seeing is there is a lot of federal training. They underwrite the costs of probably most of the training that's going on in child welfare around the country.

But instead of workers getting two weeks, they need four weeks, maybe they need eight weeks. Instead of having no years of experience, maybe they don't hire unless they've had eight years or ten years of experience.

Part of all of this is we have a current system that is struggling with a lack of resources, both treatment and intervention on this thing, and I agree that we ought to enhance and build and go 21st century, but that doesn't mean that everything that is being done right now is ineffectual. We may not have proof of it but I would note, David - not David. I guess Tom.

When we were in Philadelphia, we met with Andy Barclay, I think his name was, a researcher, is that right? And he represented, over lunch, that he thought he could make a projection as to what the number of children might be killed in a jurisdiction if there wasn't a CPS system.

The other thing I recall at the Philadelphia -- and I don't know if he's begun looking at that or if he needs some kind of a signal from us, but, David, if you recall at the Philadelphia meeting there were about 15 of the nation's and New Zealand's top researchers at the table, and we listened to this conversation about the inadequacy of the research and more research that needs to be done.

And I recall very distinctly inviting them as a group to put together something that they thought should be considered by this Commission in terms of how they would approach this particular issue, what do they think are the most important issues, how much would it cost, who would do it?

I haven't seen anything yet. I don't know if there's any conversation going on with them. Is there?

**Dr. Berger:** Their deadline to send back comments on the summary of the meeting is the 15th, which is this week. I've gotten comments back from some, and then the plan is they're going to vote which are the most important research related projects.

In terms of cost of things, I don't think that's in the realm of what -- since they're not research, like actual; these are just recommendations for projects that need to be done, but to actually see how much a project would be is a huge project in and of itself, to look at a budget for a given project.

But this is the list and people have been adding to the list and taking away. I've gotten feedback from most people.

**Commissioner Petit:** But it's not just limited to the predictive analytics, right?

**Ms. Cooper:** No, it's all the topics that we've talked about.

**Chairman Sanders:** Let me make sure -- Dr. Rubin, I agree entirely with you around the practicality and the same with Commissioner Petit, but we have CFSRs right now which are a mechanism for oversight for understanding practice.

So thinking about and going back to your comment about rapid safety feedback or the, what was it, not one more in El Paso County, CFSRs aren't geared together, that information, because they aren't measuring fatalities.

So, A, that information wouldn't be gathered so they wouldn't be able to look at it - and so what do we know about what has contributed to a reduction in fatalities, and even if they knew, then it wouldn't be spread.

So it seems that we have to think about those as next steps if that's the current state.

And it seems like that's part of what at least somebody needs to be looking at and I think we've agreed that that's probably policy.

**Commissioner Petit:** David, if I can return to this theme again, there are differences between states in total child deaths using comparable definitions with populations that look roughly the same and one may have child fatalities that are three or four or five times higher than the other.

So it would seem to me we've got to take a look at some of those jurisdictions. Is it a function of resource, is it a function of policy, is it a function of law?

I'm not saying do the full monty in terms of, you know, longitudinal study, et cetera, et cetera, but could we take a cursory look at it and see if it leads someplace?

**Chairman Sanders:** Let me go back to this because we hardly talked about this yesterday. I should make sure that I'm explicit. I'm really seeing the work proceeding through the subcommittees and so we probably need to identify, if that's the case, to come forward with one of the subcommittees saying that's the work that we are going to do, or we need some mechanism that it's kind of given in some way back to the full commission, but really the work is not structured through subcommittees to say these are the things we're prioritizing and how do we put that together.

**Commissioner Petit:** I think maybe the commission, we need help from the larger commission. The piece that Jennifer and I and Bud Cramer are looking at, one of the issues we're trying to get, is what the state budgets are for child protective services.

That information seems to be not available. What we have is what the state child welfare budget is. That houses child protection but also houses foster care and adoption which is much larger in totality than child protection.

What I'm told is if we survey the states on this, we need some special OMB or GAO or something, dispensation, to put something in front of the states, and how do we get past that, or what is the alternative of doing that?

**Chairman Sanders:** I think that maybe I didn't hear that clearly yesterday as one of the recommendations.

So it seems -- so we should probably look at, because the child maltreatment report includes what states report in numbers of staff they have that do investigation, for example. So there are some things that could be built off of that that we could start doing right now. I think that's part of what we're kind of trying to put together.

**Commissioner Covington:** When we were at the meeting in December at ASPE, they couldn't - they didn't know themselves. They said they really didn't know.

**Chairman Sanders:** They have a report that at least identifies --

**Commissioner Covington:** But it doesn't give what the state contributions are and how they're using other pots of dollars.

**Chairman Sanders:** But there's a difference between we don't know anything and we have some information we can begin to build on.

**Commissioner Petit:** They did say, in response to a specific question, what the federal expenditures are on CPS, they laughed when I said is it a billion? They said, "Oh, it's a hundred, no maybe it's two hundred. Maybe it's between a hundred and two hundred million." I thought, that can't be, given the magnitude of the problem. But these are the federal people who run the programs, are saying - you were on that call, you were at the meeting, I was just on the call.

I asked that question from five different angles to say, "Am I really hearing you say that there's only two million dollars in federal spending on CPS?" That's what they seem to be saying.

**Chairman Sanders:** I think, Commissioner Bevan, did you have something?

**Commissioner Bevan:** Yes, Marcy and Hope and Cathleen Palm have been looking at tracking allocation and use of federal funds, and they have -- we're going to continue to do this and work with Mark Testa and Andy Barclay on the fiscal analysis.

It's correlational data. It's not cause and effect, and it is child maltreatment rates. It's not child fatality rates. So it's proxy.

And we found some correlations. The more you spend on child -- the more you spend -- child welfare expenditures per child, total child population per state, the higher their child maltreatment went. It makes sense. The more total child welfare expenditures per child by states, the higher the child maltreatment rates.

I mean, they're lagging is basically what it's saying.

**Commissioner Petit:** It could also be framed the other way around. I think that conclusion, the comment is a turning point where the conclusion ought to be reversed on this; that is, the states that have the most are spending the most.

**Commissioner Bevan:** Right, so it's lagging. So the money is lagging behind the rates.

You're not spending enough is what we're saying. And the higher the state reunification rates, the lower the maltreatment rates.

The higher the state reunification rates, the parents or the abusers don't have the kid.

Therefore, the lower the child maltreatment rate. That makes sense.

**Commissioner Martin:** Wait, the higher --

**Commissioner Bevan:** The higher the states reunification, meaning within the past twelve months, so that the family has -- does not have the kid.

**Chairman Sanders:** It's the other way around. They've been reunified. The higher the rate -

**Commissioner Bevan:** The lower the maltreatment rate. I'm going to turn this over to Hope.

**Chairman Sanders:** Patricia?

**MS. BRINCEFIELD:** Also, I just wanted to say that Hope is helping me organize for a follow-up with HHS and ASPE, ODARE, and OCAN in the meetings set. If there's additional data that we want and they have it, they will provide it to us. So when we respond, we'll have that, hopefully. I just wanted to say that I heard just the other day from Catherine Nolan that the new Child Maltreatment Report should be published and available on the web by January 15th-ish or so.

**Chairman Sanders:** Commissioner Dreyfus or Commissioner Rubin, was there anything you wanted to add?

**Commissioner Rubin:** I think this has been a great discussion, guys. I think we've got some good leads to follow up on. I think the whole discussion about valuation was a really strong one.

I think the question is not whether NIH funds because they do fund. The question I think we should consider maybe is have folks at NIH come and talk to us maybe for the policy side, et cetera, as to whether there should be a specific RFA or a specific group within an ICHD that's focused on implementation science particularly for child abuse prevention.

And so that if people are interested in that, we can follow up on that.

Finally, I'm going to have to step off on that. I know Teri is going to present the military work plan, which I think is tight and very coordinated with folks over at family advocacy. So I look forward to hearing the response to that.

**Commissioner Dreyfus:** I have nothing further to add, David.

**Chairman Sanders:** Thank you.

Let me make one comment and then Commissioner Petit. The last comment that I had is it seems that part of the challenge will be -- and I think this is the issue of the kids falling between the cracks, and I think something that you raised multiple times, Commissioner Petit, is that we do have government policy that -- which is either state-by state or federal about child protection intervention; that essentially the government's interests supersede the interest of parents under certain circumstances.

You have to approve those circumstances and a judge makes a decision and so forth. And then the -- that varies from state-to-state, and we found that. And really a limited number of families meet the criteria. You see what percentage of families in Cook County in court, and in your court, very, very tiny percentage.

But that there are many more families with multiple characteristics that suggest that they're at risk for a later fatality for their child.

Doesn't mean that it'll happen but there's a higher risk. And that there is a gap between those two populations.

And so as we talk about prevention, it seems that there are some families that will have multiple characteristics that leave them at risk for later fatality that aren't going to meet, and may never meet, the limited criteria that government can involuntarily intervene in.

And it seems that we have to at least consider that as something that we talk about. I don't know that we have an answer, but it seems like it'd be great if somebody was looking at that.

**Commissioner Petit:** Two things. One in response to that question. I do think it would be useful and we can talk about it now or just come out of the subcommittee.

One thing that I think we should give some thought to, and we don't need to do it now, this falls more in the category of some kind of a recommendation, but the thought of taking a group of people looking at cases that are sitting in a department to have some of the characteristics that you're talking about, there may be a thousand such cases, there may be only two or three or four fatalities in the next year.

Is it possible to bring some people who are experienced on this from different disciplines to look at the thousand to say these are the one hundred or the two hundred or the ten that we think are the most at risk where something might happen, because you weren't picking up on these extenuating circumstances? Only one case worker with one supervisor, both, you know, under the gun, we're saying, "Let's do this. Let's do that."

Here's the question, I guess, protocol for this commission. We have been talking -- and I hope HHS is on the other end of the line. I hope they can text us right now and say, yes, we're listening carefully to everything that's going on there. If not, they should be.



In terms of this discussion debate with the federal government. Similarly with the Department of Justice.

What I'm concerned about at this point is we keep talking about letters going into HHS and ask them for specific information, and it would be useful for me to hear how that's been coordinated at this point.

And what is that range of questions and is it limited to HHS? There are other federal agencies that we're concerned about on this thing.

So before our subcommittee goes forward and promotes something, maybe it's being asked someplace else. But I'd like to see what it is point-by point, here's the letter, here's what we're asking you to do, and then at some point we say they gave us information, they didn't have the information, or they didn't want to give us the information.

**Commissioner Martin:** So, David, the question you posed about this group or subgroup of families, these high risk families, didn't I hear yesterday that someone was doing some work on, prior to the death, looking at high risk families and doing what I call a staffing on them?

Didn't we talk about that yesterday?

**Commissioner Petit:** That has gone back and forth with this multidisciplinary team. To me, that's what that is, yes.

**Commissioner Martin:** So I think you're right. I think you find a great deal of families in this place. And to be fair, I don't know what to do with them. I really don't, because they have elements of protective factors, but they certainly don't have enough at a preponderance level so I can return the kids home or either -- clear and convincing to terminate.

So they kind of sit there until we -- until something happens. That's literally what happens.

**Chairman Sanders:** I think Commissioner Dreyfus is going to try and get in, but let me just say quickly, yesterday when I was talking about policy is not geared towards preventing fatalities, this is what I was talking about. That the child protection policy is really more based on what you can prove. Not on the -- even though risk assessments and safety assessments are done, really you have to be able to prove that these things have happened, which may or may not be related to the likelihood of related fatalities, as I think we've seen from some of the research. And I think it seems that we need to think that through at some point.

Does that change our response system? Is that a preventive effort? Just how do we think about that?

**Commissioner Martin:** So when ASFA came out, there was a great deal of conversation in the court around the time frames, right. And so one of the things that, now that we are doing the CFRs, we are constantly -- and Cook County is not in substantial compliance of anything, I don't think. Maybe one or two things but nothing substantial.

So one of the things we do in Cook County now, is we -- not in Illinois, but in Cook County, is that we look at cases that are kind of lingering, this pocket of cases that you've identified and

you've talked about. And we don't look at them in terms of risk, but we look at them in terms of the length of time or the legal length of time that they're pending, and we try to figure out what's holding the case up.

And I will tell you, it's kind of a real synopsis because we really look at the court end of it as opposed to the service provision of it, to be honest with you.

But then we try to figure out whether we can impact on that time frame and shorten that time frame and see whether or not we can get it to DPR, see if we can put some other services in place to get them returned home or what-have you, so we can get to the point of making a decision.

I think this all goes back to just reinforcing what I keep thinking is more important every day that I work in this area, and that is to make certain that we don't just talk about child welfare. It has to be the whole system that we really are focused on.

So, David, I'm not answering your question. I am telling you that in my little sphere of the world we look at that pocket in terms of time frame, not in terms of risk factors, and

I do think that's a difference.

**Chairman Sanders:** So we have callers who are having a little trouble hearing. If you can push star six to mute, apparently there's some background noise.

Just a comment to that, and I think Commissioner Dreyfus was trying to get in.

This also includes both the screen outs and those who are referred repeatedly that don't ever enter the door of child welfare.

And I think to your point, Commissioner Petit, I'm not sure we have a mechanism even to look at that group, which it seems, from what we hear, they remain at very high risk for a later potential fatality, again using the research from California.

That group is seen by somebody and there's concern from somebody, but the system response is they're screened out and it's unclear if a record is even kept in some places.

**Commissioner Petit:** The screen out, is that a requirement if there hasn't been an actual incident of abuse and neglect?

Other organizations, those other disciplines can come to the table on a case and say do the risk assessment, in which it's not clear that something has happened but something could happen.

**Commissioner Martin:** Well, so to get portions of the spoke involved, though, there are different levels. I have to have jurisdiction to get involved. That's why even on hotline calls, when there is not a response to a hotline call, I have no way of knowing about it because I don't have jurisdictional authority.

When you think about a hotline call that's not accepted, but you know that there's some risk to children and it's just not to the level of the department screening it in or making a finding or stating it, yes, those families still have risk, but I don't have any authority to know about them, I don't get a list of them, they're not in my voluntary families.

**Commissioner Petit:** But at an ideal level that's differential response. Somebody's going out, a public health nurse; doesn't need to be a CPS worker, public health goes and says this is more than what we bargained for. It involves CPS, it involves law enforcement, it involves whatever.

I mean, the judge is at the very high peak of this whole process, right. There's a lot that happens underneath before it should get to you.

But this question of multidisciplinary group, we're using different language and I've been talking about doing a surge kind of thing or bring on some retired people in taking a look at some of these cases, not for the purpose of length of time but specifically as a risk.

And that's something that we are looking at and we want to have the child advocacy centers here and make a presentation. They've got some great research on this thing. But I don't want to forget the question that I was raising about going back to HHS. So, you know, the letter that we're going to ask them to inform some of this process as well.

Patricia, all I can say is that we're -- I think what you're raising is exactly the issue, and I'd like to see, in a place like Arizona, some people brought in to take a look at those six thousand cases that were just summarily dismissed as not being worthy of a look on this thing.

**Commissioner Martin:** I have a recommendation for Commissioner Petit's question about whether or not the subcommittees are asking different questions or what questions are going to HHS and the other federal agencies.

Each subcommittee has staff support. Is there a way that the staff can coordinate the questions that the subcommittee is taking to, or are attempting to take to the different federal agencies?

**Chairman Sanders:** Actually, I believe that staff are doing that now. But that was -- go ahead, Hope.

**Ms. Cooper:** We are coordinating. We're building those letters or lists of follow-up questions, and I think you'll have a chance to see those before they go in, so if anyone wants -

**Commissioner Petit:** When do you think that'll be?

**Ms. Cooper:** Hopefully later this week, by Thursday or Friday.

**Chairman Sanders:** Commissioner Dreyfus?

**Commissioner Dreyfus:** Two quick things. One just to clarify for Commissioner Martin, the example I used this morning was with Children's Hospital of Wisconsin, their child protection

center, and how now it's been over 15 years in the Milwaukee child welfare system where they review high risk cases, using the same multidisciplinary approach.

It's a weekly call presented by a case worker and supervisor to a multidisciplinary team and they've got five risks that they've identified that pull cases into that review process. So it's not discretionary. It pulls cases into the process. So that was the example I was using, just for clarification.

This conversation also took a little bit of a turn when we started talking about the screened-out reports. And I just want to remind everybody, back to the very first meeting we had in DC, when we learned that there is nothing at the federal level that is looking at intake.

You know, where states are reporting on intake and that whole intake process. It's almost like it's invisible on the federal side.

And one of the things, in my own experience, in doing things right and doing things wrong, and in Minnesota we obviously just learned a big lesson, and that was not looking at screened out calls when the next call comes in, and not just looking at them for that child, but for that family.

That was another thing with the Harvard Center, I forgot to tell you all, but a change we made in Washington State -- not sure if they're still doing it -- but Vanesha Rose Robinson made the change where we were looking at when a call came in, that an intake worker was looking at all past calls on that family, not just that child.

And the problem in Minnesota recently, and Chairman Sanders knows this well because he's been there talking to them, is where they thought they were dealing with disparities by not allowing intake to look at past CPS calls, intake calls.

So I just want to reiterate, definitely an issue.

**Commissioner Petit:** And, Susan, I think the legislature in its wisdom has repealed that piece of legislation and now are allowing it.

**Commissioner Dreyfus:** Yes, correct.

**Chairman Sanders:** So I think as much as anything, the point is that we have a committee looking at CPS. So kind of after everything has happened. We have a prevention or public health subcommittee, but it seems like this population, I'm not sure is being covered by either, and it seems we need to, will need to think about that over time.

And maybe that's a gap that we end up having. Maybe we need to look at a different way of thinking. I think that's a population that if we're looking at reducing fatalities right now, is perhaps the group that's most at risk, particularly kids under three who are reported in and there's no response, nobody's seeing the kids at all.

**Commissioner Covington:** I think it goes to us thinking through and taking another look at what Tampa did around predictive analytics. I still think that's an important piece that we might not want to lose sight of in this conversation.

**Commissioner Dreyfus:** David, you're raising a really interesting point, something I hadn't -- I've never given any thought to, and that is I'm wondering, because there is such a lack of data on intake, I'm wondering on the kids that, quote, unquote, "never known to the system," are we sure that we're accurate in thinking that those kids who have been killed, quote, unquote, "never known to the system," that there indeed were -- I just never thought about this -- were there calls on that family, were there -- when we say this child was never known to the system, what about the family?

**Commissioner Covington:** I know that when I was doing child death review in Michigan for about ten years, there was no way for the state to even get the reports back. If a call didn't get taken due to privacy rights and everything else, those were dropped and gone forever.

There was no record ever of those coming in.

**Commissioner Dreyfus:** I hadn't thought of it that way, and I'd have to talk to Commissioner Rubin, but that's what makes me wonder if this belongs in our subcommittee, because these kids, quote, unquote, "not known to the system," I'm wondering what our definition of that means.

**Commissioner Covington:** And I think some states have changed policy or practice around those reports, where they do keep them now. But I don't know, really, the extent it of or what CAPTA or what federal law is around it.

**Commissioner Petit:** Well, we discussed this yesterday, and earlier, that the NCANDS people say that only 30, 35 percent are known to the system. And I have been writing, and Tom has been looking at, and we've prepared papers that say the real number looks closer to 70 or 80 percent because the Feds screen out calls just that ended right there.

Many of the cases in which there was an investigation but no substantiation, that doesn't count as a previously known to the system, or even if they received treatment and the case was closed, that may be not known to the system. There's a whole list.

**Commissioner Martin:** You mean on a voluntary basis?

**Commissioner Petit:** The states have -- no, there were only two or three criteria that count and previously known to the system. They're both very narrow requirements - length of time in foster care, family preservation services.

But all these other things I just rattled off, and Tom has created a list we've distributed before, this eight or nine classifications that your average grandmother would say they knew, and the system says they didn't know.

Well, if you get a call and you go out and investigate and you don't substantiate and you do that five times, should that be previously known to the system or not? They screen those right out. That's not considered known to the system. I would say it's known to the system.

If you take a look at it, it's more like 70 or 80 percent than it is 30 or 35 percent. We can recirculate that communication. Tom's got it. In fact, he read the list yesterday.

**Chairman Sanders:** I think there are a couple of different issues. I heard, and Commissioner Dreyfus raised the issue, that somebody needs to also then look at what we do.

Because it sounds like the recommendation at this point is to count them in the group. But I didn't hear a recommendation yesterday from the subcommittee of then what is done.

Is that part of the surge or kind of what -- if it's part of the CPS subcommittee, what do we do with that?

**Commissioner Petit:** I will tell you, in a number of studies that we used to do at child welfare legal, when we're consulting with the states, we would look specifically at this question of what was the difference in needs between families that were screened in and families who were screened out.

There was virtually no difference whatsoever in what they looked like. And I don't know if anyone has done more recent surveys than that, but I'd be happy to just circulate -- what's that?

**Chairman Sanders:** NSCAW has said the same thing, the LongScan study says the same thing, Emily's research says the same thing.

**Commissioner Petit:** So eventually what happens is the first time they screen you out, the second time they screen you out, and there's a series of escalating events that keep on going.

**Chairman Sanders:** What do we do? What subcommittee takes on this issue?

**Commissioner Petit:** I think it's a CPS question, what cases are being screened out. And I've mentioned this before, I've been in jurisdictions where the intake worker, the person on the phone was given that assignment as a disciplinary action because of something else that they did. So they would put them on the phone.

**Commissioner Martin:** David, I'd like to go back to your question. It seems as if we have a couple committees. We have a committee that's looking at families with risk factors and children with risk factors, and we talked around this issue of an interdisciplinary assessment tool.

And we've also talked about the death review after the death occurs, and then this pocket or community of families that are kind of sitting in the middle of the system that still have risk factors and children are subjected to risk but there is really no attention paid to them.

And although Susan refreshed our memory about this program, one program that's going on, I think she said in Minnesota, I do think that there needs to be -- it seems to me, that if we're really going to talk about eliminating deaths, that is a good place to really sit down and put some effort into figuring out what is going on and what can be done.

Because those are kids that we know. So we can't say we don't know them. Those are kids that we've identified with risk because we already know what the risks are. We have authority

or jurisdiction over them because we've already got them in our system. And we're still not doing anything with them.

**Chairman Sanders:** Although we may not have them in the system, because they could have been screened out.

**Commissioner Martin:** But we clearly know them.

**Chairman Sanders:** Again, I would just reiterate, it seems that policy is misaligned with that population, and we probably will have to think about that at some point. Is that left up to states to deal with? Is that a federal issue? But that population is not covered right now because they're involuntary in all of the other systems we've talked about -- or voluntary in every other system we talked about and involuntary and not eligible for child protection.

**Commissioner Petit:** David, in some states they have much more spending on this than other states that allows them to purchase those services even if they screen them out. They have workers who have smaller caseloads so they're not as pressed on triaging of cases in terms of coming in or out.

There is a resource issue here in terms of how much they can do. Some states go out on 10 percent of the calls and others go out on a hundred percent of the calls. In part that's a function of resource, not better knowledge.

**Commissioner Covington:** It goes to -- I think I mentioned yesterday, in Michigan we saw so many of those cases coming through child death review where there had been multiple, multiple reports that have all been screened out; that they finally changed policy to say for kids under four, I think, after three reports. Doesn't matter what the report is, they're going to go out. So there are ways to go.

**Chairman Sanders:** I guess that's what I'm suggesting, that a policy decision that says this group is at such risk that regardless of where we've been historically in funding we need to address. I think that's one of the questions that we'll ultimately have to answer because I think that group remains at incredibly vulnerable.

But organizations within the Commission, it sounds like that's going to fall under -- so I would probably revisit the priorities from yesterday because it seems like this is something -- Commissioner Dreyfus, anything before --

Commissioner Bevan, go ahead.

**Commissioner Bevan:** I just want to add CPS should be looking at capped in terms of state assurances. The states are supposed to assure, through the governor, supposed to assure that there is a triage procedure, including differential response for the appropriate referral of a child not at imminent risk of harm to a community organization or voluntary preventative services.

We know that doesn't happen, but that language is supposed to be reauthorized. Therefore, we need to strengthen the language that's already in there because it's not -- we know it doesn't happen.

**Commissioner Petit:** That's good.

**Chairman Sanders:** Commissioner Dreyfus, is there anything you'd like to add? We're going to take a break in just a minute. Commissioner Dreyfus?

**Commissioner Dreyfus:** No, I have nothing else.

**Chairman Sanders:** Commissioner Rubin started by putting together some initial ideas about the role of the subcommittee. It sounds like there's no opposition to that is the Process.

So we'll take a break for ten minutes and we'll come back and close with the military families and with policy.

**(Break was taken.)**

**Chairman Sanders:** Welcome back. I think we're going to get started with the last part of our agenda.

Commissioner Dreyfus, are you back?

Commissioner Covington, do you want to present the military?

**Commissioner Covington:** I have an unremarkable presentation -

**Commissioner Martin:** We'll evaluate how remarkable it is.

**Commissioner Covington:** -- on the military committee only because we haven't really done a lot. We've been sort of in a holding pattern while the DOD sorted some things out in terms of making some agreements about who -- that we can even have meetings with them.

There's layers, as many of you well know, of brass and civilians and the different departments and how that all connects.

So where we're at right now -- and the good news is David had worked through his connections in the Army and the Army has a research branch that is doing some work around child well-being and child maltreatment in military families.

And they all signed off that they're -- that they're anxious to talk with us and tell us about their work, and the Army family advocacy office -- also Colonel Cox is the person we've worked with there, is also absolutely supportive of us working with his folks, and then we were working with the Department of Defense main office on family advocacy.

And family advocacy, for those of you that don't know, is the branch in the military, a division under family support services that provides support services and does the determination.

It's sort of like the CPS agency, but they also do family violence and domestic violence as well in their office. And they have a family advocacy person identified across all the branches. So there's an Air Force, Navy, Marines, Coast Guard, and Army family advocacy.



They report up to the office of family advocacy in Washington, D.C. that we've been primarily talking about.

So the plan, to move ahead, is we're going to create a list of questions that we consider important that we are going to ask through the Office of Family Advocacy -- they're going to send those out in a template format to all of their different branches. And they come together in March for a three-day meeting. Not all in person. Some of them call in by phone.

But we've been invited to present to them as part of that meeting where we can have a lot more conversation and discussion, but we're still in the process of creating our questions that we consider pertinent. Sort of like the questions that you've all identified.

The parallel to that, we had originally thought of having the research arm over at the Army be part of that conversation, but apparently it would take years to make that happen because the branches have to go way up the chain to get approval for these different units to talk to each other.

So we're going to do that in a parallel way. And David's been doing some work with looking at, pulling out some data related to military families and he wants to use it as a forum to present that information to them and then get some ideas from them.

So we're kind of going at it in two different ways, but we'll have a lot more -- after our March meeting with them, I think we'll have a much greater sense of direction in terms of where we're going to go with this.

We already know that one huge area of concern for family advocacy is the confidentiality restrictions that really prohibit them from working well with the states, civilians, CPS, and state child welfare agencies to the point of it's almost kind of ridiculous.

**Commissioner Martin:** Isn't there some requirement that there be coordination?

**Commissioner Covington:** No. The requirement is that the DOD has to respond to child welfare and the states for information, but it's not reciprocal to the point of, if you think about how tedious this work is, they've actually got a person assigned in the Office of Family Advocacy, a person who's working individually, state by state by state, trying to change the state legislation around the sharing of information.

So the Department of Defense gets included in that, which to me sounds unbelievably tedious and a long, long term process, if in fact that's ever going to be possible.

So I know that they want to come with us with some ideas on ways to streamline that, because it's really created a lot of problems for them, in that they don't know of their own kids and their own service members' families that are running into problems with the -- running into -- have been identified through CPS for maltreatment. They're not allowed to even hear about these families.

And, you know, the Army and the military, the Army, the Air Force, the Navy, have really pretty significantly robust prevention services available for families; that they can't get those services out to those families.

And there's a lot of reasons for that. One would be - we mentioned the -- and I'm probably, you know, I'm speaking off of what I've heard -- one example would be when a military person gets a conviction, for example, of child maltreatment, that can be a career-ender for a soldier or a sailor.

Whereas it's not necessarily true in the civilian side. You can get another job. These guys, it can be a career-ender. So a lot of states are reluctant to do that to some of their families.

Those are just some of the issues that I'm sure are going to percolate up.

The other thing we've learned is that there are some really neat and robust prevention systems that the military has developed based on the information around fatalities, one of which is the Navy has a really strong shaken baby prevention program, and they have a really strong safe sleep program.

So we want to hear more about those and how they develop those and what their resources are.

We're also really interested in how the Office of Family Advocacy gets resourced in general, because we don't think it's resourced terribly well, even though family services is a huge priority of this administration.

They are also really -- they're very, very concerned about how issues related to deployment have led to child fatalities, and I personally have heard that because I get to attend their child death summits, but those summits are closed to the public.

So we'd like to have a conversation with them about what kind of information can be released to this commission around those issues and are there recommendations that we can help with that may improve services for deployed -- it's when families come home, actually. The problem is when soldiers come home, what we can do to maybe help drive that, because a lot of the fatalities they look at are deployment-related.

Either soldiers are coming home with really poor attachments to their new babies because they haven't been there when they're born and they've been away for eight months, and then the mother usually disappears quickly and leaves the baby with the dad.

And there was a lot of issues there and those babies can end up in really dangerous situations.

Or the other issues related to deployment are the isolated caregivers that are left home with small children and they get into trouble as well with their kids.

So that's where we're at with that. We haven't really formalized a formal set of questions, but we'll be doing that in the next month or two. We've been really happy with the level of cooperation we've gotten throughout the different branches in the military to work with us on this.

Do you guys have any questions or thoughts on other ways we should be proceeding?

**Chairman Sanders:** Sounds good. So we have a sense of direction, great.

Commissioner Bevan, policy.

**Commissioner Bevan:** Hope and Marcy and Cathy have really put this together, the actual subcommittee of the policy.

We are tracking closely with the purposes of the act. We feel that that's really our charge, is to stick closely to what we're required to do.

So we're looking, first off, at effectiveness of existing programs. We're trying to connect the dots.

Some of what we're hearing from other subcommittees sort of gets dropped into areas but we're not connecting them. So we're trying to sort of connect these dots so that we can come up with one report, if that's at all possible.

So in terms of effectiveness, we are looking at the "show me the evidence," you know, approach of Haskins new book. And in it he talks about the initiatives of President Obama in terms of evidence building. And we will be tracking his evidence building efforts to see how he's doing it and if he needs to be doing it more in our areas.

But we also learned about centers for excellence, but, again, in our areas it doesn't seem to be as prominent but we don't know enough about what President Obama is doing. But apparently it is very evidence-focused. So we need to know more about that.

We are focusing on 4B and 4E as well as CAPTA, though we're certainly willing to yield on all. But we are trying to identify both in 4B and subparts 1 and 2 and 4E, what's working, what doesn't work, and what else can we do, and how are the words right on the page of the statute but they're not being implemented correctly or the regulations don't match the statutes. And again, leading to not implementing correctly.

So we're looking at that considerably. We are looking at the CFSR, because I'm concerned about not having fatalities. Before we had CFSRs, we had paper checks of compliance. So we've moved from paper checks to CFSRs, but we're still, we're not there yet.

But again, it's my understanding CFSRs, that there's willingness, some flexibility there, to be changing or to adding, or reviewing anyway, where we are with CFSRs.

We also want to look at the reunification bypass, why are we using that, and we should be--

**Commissioner Covington:** Could you explain that?

**Commissioner Bevan:** In ASFA there's an allowance, permissible consideration basically, that says that in these -- when there are cases of aggravated circumstances such as - but there's also a mandatory section.

But there's a section that says when there's cases of aggravated assault, chronic abuse, and torture, you know, death of a sibling, these cases, when a child is born, that there does not need to be made -- the reasonable efforts to reunite or preserve the family; that in these particular instances, that you can bypass the reasonable efforts requirement and move directly to TPR.

And that's consistent with the requirement in reducing the length of time the children stay in foster care.

So given that we, given that babies are, one, the subject for the most part of the fatality of our commission, but babies are also the most likely to be not -- to be identified at the hospital.

We're also looking at the safe plan requirements from CAPTA. Because that's another requirement where if it worked correctly, if, you know -- and maybe again that language needs to be changed.

But if it worked correctly, if the mother was clearly not able to take care of this child from the hospital, or, frankly, didn't want to -- I mean, if we can encourage even voluntarily relinquishment, I prefer that over termination of parental rights as an enforced way.

But I would love to see more of voluntary relinquishment, because it shouldn't be looked at as a stigma; it should be looked at as something that's positive.

**Commissioner Petit:** Can I ask a question? Is the hospital language actually in CAPTA?

**Commissioner Bevan:** Yeah, in the 106 section of CAPTA, there is language that says, "A safe plan must be identified at the hospital for children who are identified at risk."

Now, it was limited at that time when it was written to children where the parents are known of substance abuse, like if the child was born crack-addicted or there was substance abuse. Because we were careful about not saying alcohol, since it's a legal drug. But it specifically states substance abuse. Maybe it shouldn't. Maybe it should say -

**Commissioner Martin:** One of my frustrations is that it doesn't say alcohol, particularly when we know that the alcohol is more -

**Commissioner Bevan:** Right.

**Commissioner Martin:** You should know that on the court level that is a big frustration.

**Commissioner Bevan:** You know, I would have done it in a heartbeat personally. But I know the Fetal Alcohol Syndrome was a difficult one. It's identified, but there are lobbying groups that don't view alcohol as a legal drug. But I don't think the Commission has to pay particular attention to lobbying groups. Do I need to name them in case anyone doesn't know what they are? So that's -- yes, that's what we're looking at.

And we also want to know, to the extent that we can, about 4B and what's happening with that money. It's a little pot of money but let's use it.

And I want to look at the Social Services block grant. There's a problem with block grants, both with MCHB, with the Maternal Child's Health Block Grant and with Title 20 because we don't have a face. If you don't have a face on a block grant, you appear to be on the flexible side of block grants.

I believe that states let a thousand flowers bloom but I'm concerned about the fact that block grants tend to be the first thing on the cutting block because they don't have a face.

If we could move to somehow putting the child fatality face on Title 20 -- Title 20 is such a small amount of money anyway -- that maybe that would be, maybe that would be helpful. Unfortunately, we would be competing with the aged groups, the meals on wheels, and everybody else. So, you know, we're fighting amongst ourselves.

**Commissioner Petit:** Just for the record, it's an opinion, flexibility and entitlement are not mutually exclusive choices here.

**Commissioner Bevan:** No, I understand. If we could have an -- well, a state entitlement.

Are you saying individual entitlement?

**Commissioner Petit:** I'm saying the foster care entitlement at this point does not need to be block-granted in order to provide flexibility. So that's probably something that will spiral over later but you mentioned it in passing so just for the record --

**Commissioner Bevan:** But again, it's entitlement to a bed. I don't think entitlement to a bed is what we're talking about. We want services. We need to have more services.

**Commissioner Petit:** Right.

**Commissioner Bevan:** So we're going to look at how - we also need to have, as I think Emily talked about, risk prevention, some sort of priority, some sort of setting up of priorities in terms of identifying different, "stratifications of risk," was the term she used. I think we need to do a little bit more of that in terms of being able to match some of the programs with the right families and the right kids. There are also -- so that's effectiveness.

Accountability is our second issue. We want to conduct a complete review of policies, of federal programs, to identify the existing federal authorities and accountability related to prevention. It's both.

You know, you've got 4B, 4E, Title 20. Then you have MCH block grant, the Child Care Development Block Grant, Head Start. So you've got -- Title V, then you've got SCHIP and Medicaid.

We want to look at the lines and we want to look at what-- how effective these block grants and these programs are in terms of cooperation and working together.

But in terms of just identifying these streams because there are a lot of streams, they are not, unfortunately, producing what we would - we don't see the outcomes but there are a lot of streams of funding.

So again, we're going to track -- the efficiency is the third area. So we want to attract the allocation of federal funds. First we want to identify them, we want to hold them accountable, and we want to examine the federal funds in terms of what --

**Chairman Sanders:** Cassie, excuse me. For the second category of accountability, are you looking at both federal accountability and state accountability, going about it that way?

**Commissioner Bevan:** Yes, in our future, next step, we want to definitely focus more on states.

As I mentioned to Michael before, we're concerned about the requirements for states that states are not meeting. On the other hand, we don't want to hamstring the states in terms of not allowing them the flexibility to be able to do things their own way and to do things in the ways it makes sense to their state.

So we do want to talk to the state APH to say, the counties and NACO and all of them, to see what their guidance will be in terms of how we move forward and where their ideas are in terms of what we're doing.

So we will track. And, for example, the higher percentage of children of poverty, the higher the child maltreatment rate. You know, we know some of these things.

What do we do from that? Where do we go? And that's sort of what we want to look at. We want to look at the use of funds, but we also want to be able to acknowledge some of the things we know are correlated. Not directly, you know, cause and effect, but correlated.

**Commissioner Petit:** This is a very formidable task that you're outlining in all of these federal programs and they're not all meant to address the same problem.

So in some areas, for example, reductions in maternal mortality rates, reductions in infant mortality rates, reductions in mortality rates in children prior to the age of 15, all of those things have been huge successes at one factor or another.

How are you going to parse this out? How are you going to dissect all of these programs?

Are you looking at them as how they relate to childhood fatalities?

**Commissioner Bevan:** Yes, they have other purposes.

**Commissioner Petit:** So, for example, maternal mortality at delivery is very rare today, right, thanks to programs like this. So how are we going to do that?

**Commissioner Bevan:** Well, we want to look specifically at the existing authority to look at child mortality within these programs. You have the broad outlines of their purpose, but then

there's also, you know, in their, in their authority, the ability to look, to directly affect child mortality.

They're not, because they don't see that as something that is within -- rises to the level of what they think they're doing.

We want to encourage and look and see, within your broad mandate, can you be -- what do you need from the Feds to elevate this in terms of what you do with the money that you have.

Because there's -- a lot of these programs have a lot of flexibility with the money they have, in terms of what they do with grantees and what kind of studies they commission.

**Commissioner Petit:** Just take here maternal child health, which is still a vital program, it's froze at the level that it was at 30 years ago. So in terms of the priorities that they set, the things they choose to fund, it's been dampened down by the fact that the purchasing power is eroded by ASFA or more or something.

**Commissioner Bevan:** That's where accountability comes in.

If we can find programs, and you know that under the debt ceiling bill in 2010 - you might not know this -- it's a little tiny piece in there in Title 2 that calls for a study of the elimination of duplicative and wasteful spending. And it calls for, "The controller of the GAO shall conduct routine investigations to identify programs, agency offices and initiatives with duplicative goals and activities within departments and government-wide and report annually to Congress on the findings, including the cost of such duplication.

There has been -- one of the areas in the SIDS bill that I looked at, one of the reasons why they took out a lot of the funding for the SIDS bill was that CBO said that that money wasn't necessary because those activities were already funded.

So I mean, we want to sort of connect the dots on that one, because if the GAO has not put-- and so far I don't think any of our programs are on the list; that they have been compiling a list, but I don't think any of our programs are on it.

So either we have duplicative programs or we don't. But we need to find out, if we have duplicative programs, where they are, and if they're not working, can we -- can you say that a program is not working but then not lose the resources?

That's a problem, too, because we're concerned about, you know, come up and say nothing's working, does that mean we're going to lose the funding?

**Commissioner Martin:** That's what I kind of, what I was going to ask you about. I love how you laid out what our charge is under our act and kind of how you see the policy subcommittee fitting into that.

I'm not sure that we have to be involved in identifying duplicate programs. Because when you first started, I was thinking, wow, that's pretty aggressive because it seems like a lot of work to go through all the federal programs that have any funding attached to this issue.

But then I also thought how smart that would be, because even if we find pockets of money, even if those funding streams that you already have identified are small streams, but they -- in the aggregate there's some money there, that makes sense, right?

But I'm not sure if we should be in the business of looking at duplicate programs. Because I don't think that's our charge. I don't think that's our responsibility and I'm not sure that that would be very positive towards our cause.

**Commissioner Bevan:** Well, see, when we were asked to look at effectiveness and efficiency, to me that was looking at duplicative programs, efficiency and effectiveness, in terms of charge.

My concern is that if we find it, how do we still capture the money? The same with programs that don't work, how do we still capture the money?

**Commissioner Rodriguez:** But it also seems like the need is so great, that we're not currently serving. So if we see duplicative programs, clearly they're not serving duplicative -- like the families are not getting services twice.

Two different programs may be providing services, so it may just be a different way of looking at if we see there's sort of two funding streams that are available to fund programs, then maybe we should be targeting one program towards this other population that's not currently getting served well.

**Commissioner Bevan:** Well, they're certainly not getting high quality services.

**Commissioner Rodriguez:** Right. I'm saying there's sort of a lot of things you can do once you find out there's a duplicative program. It doesn't automatically mean, oh, we don't need that.

It just means we know we now have two resources that can do this thing. And probably even if you had ten duplicative programs, you still wouldn't serve all of the kids and families that need to be served. So it might be the what you do with it after that matters.

**Commissioner Zimmerman:** So is duplicative programs like in one particular neighborhood there is an after school program and then there's a youth at risk program and they - even though they may be in a locality, not all of their youth are being served twice? Is that duplicative or are you literally looking at just --

**Commissioner Rodriguez:** Like home visiting the funded by ACF and home visiting funded by public health. Would that be that be an example of a duplicative program?

**Commissioner Bevan:** It depends exactly how it's charged in the statute. What does the statute say about what's it's supposed to be doing? And if they are two different home visiting programs, why would they -- again, why are they in two different places? I still don't understand the MCA and HHS split.

**Commissioner Zimmerman:** I see. At the federal level you want this duplication thing.



**Commissioner Covington:** I guess I have a concern because it feels -- I don't think it's our charge, and it sounds like you're trying to do the work of the GAO rather than the work that we're supposed to be doing.

I'm concerned about that piece, when there's -- I think some of the other stuff you outlined makes a whole lot of sense in terms of looking at policy, but I don't understand the need to spend a whole lot of staff time looking at federal programs to look for duplication across resources.

**Commissioner Martin:** Cassie, I didn't mean to be critical when I started, but my concern is similar to Teri's. And I'm not saying that your subcommittee is going out to specifically find these duplicated programs throughout the statutes.

I'm just concerned about -- you know a lot more about how the Hill works than I do. But I am concerned that when we bring that kind of concern to the Hill, that defeats our purpose. It kind of works against our purposes here.

So what I would suggest, or one of the things I would hope that the policy committee would do is look at the available streams, the current available streams where we see monies that may be available for this purpose and then see how those are currently used and see whether or not we can enhance this issue of eliminating childhood deaths due to maltreatment.

**Ms. Cooper:** Can I jump in with a comment, too? We have something to share in terms of this very broad policy overview. We've looked at dozens and dozens of programs and can share that hopefully in about a week or so. Chairman Sanders has to look at it first as well.

With regard to what Congress or the GAO has already been tasked to do with identify duplication, I think from -- understanding the policy landscape, it's important for us to see what they've identified as programs that fit into duplication and meld that with our analysis on what we're finding on our own, in terms of the value and leverage and possibilities for strengthening program authority.

So we should know if some of our priority programs are identified on a list that has been conducted already through this audit. And then trying to understand, have they made a strong case for duplication or concern from their standpoint around this. What do we have to say about that?

I think in addition to that, there's a number of other kind of events and activities going on in the policy landscape, that it is incumbent on this committee to understand the status of that and what the implications are to what gets put forward from this committee.

I think there's kind of, at least various levels at which we should at least understand and acknowledge and perhaps continue to discuss what that means.

**Chairman Sanders:** Let me just also add in, or at least it's a question to be posed to the Commission. Because we are clearly given the charge of coming up with methods to prioritize. And it seems that -- prioritize, prevention, and early intervention.

And it seems one of the logical ways is to look at how dollars are currently being spent, and identify a better way of prioritizing than multiple funding sources or whatever. So how does duplication fit into that?

It seems to me it is something we need to consider, at least as potentially a method. But there may be other things that we think are priorities, that we'd want to look at other methods, and do we have ideas of what that would be if it's not looking at duplication.

**Ms. Cooper:** There was another GAO report issued in December and I would be happy to circulate it. It was requested by two senators involved in government oversight and affairs, generally, and they were asking GAO to look at the history of block grant programs that have been consolidated.

And the methodology that GAO took was to take a sampling of issue areas. One of them is housing as it relates to homelessness services. And so it gets closer to our human services area.

But they really lay out a case for why Congress has consolidated grant programs in the past, what are some of the threats and opportunities associated with that sort of policy move.

And I think, as we move into a new Congress and major budget discussions going on and the potential for block grant programs that we care about to be part of those discussions, I think that we do have a lot to learn in terms of the block grant history and the block grant discussion, how the block grant funds fit into all the programs that we've been talking about for kids in child welfare and kids outside of child welfare.

**Chairman Sanders:** Commissioner Dreyfus has a comment and then Commissioner Petit.

**Commissioner Dreyfus:** I want to get a little bit of clarification on the use of the term program. I think there's a real shift going on in the field of looking at the intersection of these programs, looking at things beyond an isolated program, and somehow people are just in this program that solves all issues but it's more about integration.

I just worry a little bit if the Commission is going to be thinking that we're going to, quote, unquote, "solve this with programs," and how we're using that term.

Is it the program's in a box? I'm funding this specific service being provided by this agency? When I see what's going on out there and what my colleagues around the country are really focusing on is integration as being what's key to actually getting to the outcome, and no one program in and of itself solves these tough issues.

**Chairman Sanders:** Commissioner Petit.

**Commissioner Petit:** When I first started working on all of this stuff, which was a long time ago, Model Cities was one of the big programs, and I was in Portland, Maine, and we tried to create an organization called First Stop in which all of these citizens who were being served by hundreds of programs and organizations in the greater Portland area would make one stop. The idea of collaboration, integration, working together, sharing data, et cetera, et cetera, has been around -- streamlining, has been around for a long time.

I think, Cassie, what I'm wondering about is when we -- all of us are guilty of from time to time of saying blithely, "Well, these don't work."

Well, when we say they don't work, what do we mean when we say they don't work?

They don't work because it's bad policy? That is, you shouldn't intervene if families are being harsh with their children? So is it bad policy or poor execution or an under resourced kind of program? Is it a question of it would work better if you spent more or it would work better if you change the law more?

I look at, as a citizen, at the Pentagon, and I think the Army has helicopters, the Navy has helicopters, the Marines have helicopters. They all have helicopters. Is that a duplication of efforts or do they have very specific kinds of tasks?

So when I look at all of our children's stuff, a lot of it is very, very specific. And I can tell you, my experience would be if a public health nurse has a home visiting program and if CPS has a home visiting program, they are working together on this thing. They're not both showing up at different times of the week unknown to each other.

**Commissioner Rodriguez:** Probably not even serving the same population.

**Commissioner Petit:** What I'm saying is that when you do get to the local level, to the extent that they're able to, but they do have specialized tasks.

And one of the reasons we're in the situation we're in is because the Congress has recognized that over the years and that's how they ended up funding this stuff. I just don't want to preemptively say this stuff isn't working.

What is it that's not working?

The fact that there are still children that are being abused, CPS is not the Antipoverty Agency. It's not the Maternal and Child Health Agency.

It's very, very reactive. So for me -- this isn't critical -- I'm just saying when we put this out there, when we say it's not working, what's not working? The fact that some kids get killed? There will always be some kids that killed.

So we have to be careful in terms of how we frame fiscal responsibility and accountability with the idea of, again, overstating, and I'm not talking about you, I'm talking about all of us, overstating, "Gee, the system isn't working."

Well, what does that actually mean?

**Chairman Sanders:** Let me ask a question, because I think that this -- I'm not sure to what extent this is an issue of semantics or -- we need to be as clear as possible.

But I think as a commission, it would be helpful for us to know the range of programs that are targeted to impacting this issue, both who served and what they're asked to accomplish.

I think you're right, Commissioner Dreyfus, in our conclusions we need to be careful in not continuing to perpetuate the notion that there's a single program that'll work or not work.

But it seems we need to know that in order to be able to say are there better ways to prioritize how these dollars are spent, and that we should have some idea of what that method is for prioritization.

And are enough dollars being spent? Maybe the priority is to add dollars. Are dollars being spent in a wasteful way? That's something to say, but it seems we need to know that pool of programs and dollars in order to come up with methods to prioritize.

And I'm not sure -- that's what I heard you saying,

Cassie. Maybe I'm over interpreting what you said, but that's what I heard. And it seems to me we do have to do that.

**Commissioner Bevan:** I don't know to the extent that many of you have seen the report that was sent to Congress, the 2013 report. It was on all of the programs that have to do with children, child abuse, neglect of children.

I mean, these reports, we have a thick list. I had it with me.

**Commissioner Covington:** Who did the report?

**Commissioner Bevan:** HHS. It was a required report. It wasn't very good. It just lists all these programs. It's not very good at all. I couldn't use it. We wouldn't use it. It just lists programs.

I'm not looking at a particular programs, but I am trying to get into the spirit of the coalition for evidence-based policy.

You know, it refers to the National Academy of Science's report. And it says, "Recommendations on criteria for establishing strong evidence or effectiveness. Federal and state agencies should prioritize the use of evidence-based programs and promote the rigorous evaluation and prevention and promotion of programs in a variety of studies in order to increase the knowledge base of what works for whom and under what conditions."

And then it sort of lists out the importance of setting some priorities in real world environments, given reasonable costs, and with a guide to implementation.

So it's not a question of just being whatever we used to call -- the green-eyed, do you remember under Reagan, the shades, the accountants? I'm not doing that.

But I think that we need to look at these programs in terms of the efficiency as well as the effectiveness. And I think programs in terms of areas, statutes in the law that have been specifically -- even though we know, Mike and I know, that these programs come up from nowhere. They're just built upon built upon all over the place. There's no systematic way of building programs on child abuse, neglect and fatalities. They just come up. And that's part of the problem.

So that the next thing -- we don't have cooperation and coordination. We would like to gather some of these federal partners and get some sense of what, to what extent do you work together.

I mean, you talk about the need for federal leadership, but we need to have some understanding about, for example, these are, you know, under 4B, there are 11 HHS operating systems to just look at federal grants.

We have to look at what is a federal agency work group on child abuse and neglect. If they don't cover fatalities, which apparently they rarely do, even though they meet quarterly and there's over 40 agencies, that's a problem.

What we can do about it, I don't know.

But I know we can't call for federal leadership unless we say something about what already exists. Otherwise, we'll be ignored. That's my biggest fear, is being ignored.

So far we know there's very little evidence or guidance or data to guide us. We don't have it. There seems to be -- we don't really know about duplication of programs or even areas, because we don't know what areas of, in the federal government and in the states, where these programs exist.

So we want to look at these existing programs, we want to look at the strengths and the weaknesses, how they can be, how they can be supported and what we can do in a deliberate, sustained, systematic way to fix it. Not the way we've been doing it for the past -- since 1974, when we first did CAPTA, which has been haphazard.

**Commissioner Petit:** If I may, on this one, I think you're absolutely right on this track that you are discussing right now in terms of where the leadership is, and how it gets focused, and how it gets collaborated. Let me just toss out a thought on this thing.

We ourselves would have a terrible problem trying to unravel all the tracks, all the wires that go into what the federal government looks like on this. It's our collective federal government. I don't want to say federal government in a pejorative kind of way. But the reality is, again, form follows function.

So to the extent we are clear about what the federal role should be, that is, serving as a point of distribution of information, gathering knowledge-- all 50 states don't have to research everything at the same time. That would be a waste of resource as well.

So what is the role of federal government? And I share with you, there's this commission, the panel, the child abuse panel that exists that brings 40 agencies together, and I don't see what the product of their work is as -- in terms of scaling it to the level that we're talking about. Of course, the federal government's also a source of money.

But one of the reasons why this legislation got adopted is because the Congress agreed there was no current national strategy for reducing child abuse and neglect, fatalities, and they are looking for a strategy.

So rather than us to do a ten-page breakout of mindboggling acronyms and lack of clarity of what's going on, it seems to me if we say this is what the federal role needs to be, that is the function, and now, to the President or the Congress, create the form.

And the form looks like this. We're not wedded, as far as I'm concerned, to the current vehicle that the federal government uses now, because clearly, it's ineffectual. It is ineffectual. It's not just if they did more, better, harder, it wouldn't be effectual. It's ineffectual and it's going to stay that way until something different happens.

So I think you're on the right track with this. What I don't want to try and get is our small staff and our small group getting into figuring out all the subsections and subsidiaries of the whole federal thing. It's beyond our ability to address.

The White House could address it. The Congress could address it, but I don't think we can address it. What we can be clear about is there needs to be greater clarity about what the federal role is and what that federal role is in relationship to the states.

**Commissioner Bevan:** One of the things we intend to do is meet with GAO and not only talk about their report and their recommendations, such as they were in 2011, but what can they do for us, in terms of some of this review of what already exists and some sort of overhaul. Because we can't do more, or -- you know, we can't, because given the way we're already structured, it won't work.

**Commissioner Petit:** I agree.

**Chairman Sanders:** Judge Martin, you had initially expressed concern. Is there --

**Commissioner Martin:** I'm listening, and, you know, I think my primary concern is making certain that we don't put ourselves in a position where we're working against ourselves.

And so with that said, I have been listening to the conversation and I guess I just have to kind of see what the product that this subcommittee is bringing to really understand if we are.

**Commissioner Petit:** As they said on Downtown Abbey this week, Carson said, "I didn't say I was opposed. I just said I need to be convinced." I think that's what you just said.

**Commissioner Martin:** There you go. You said it well.

**Commissioner Petit:** I love that show. I watch it all the time. Is Bates going to escape? I'm glad Green was killed.

**Commissioner Bevan:** I think we're sort of on the same page and you can wait and see. I said I was going to wait and see for everything. So you want to be a 3, be a 3. I'm a 3. What the heck; I moved from a 1, and that's because I was really sick. I'm feeling better so now I'm a 3.

So in the future, so we're going to meet with GAO. We also want to meet with state level people. We also want to look at child fatality as a crime. We want to look at how fatality is

defined, what happens with the ASFA bypass, what happens with siblings, what happens with determination of who the perpetrator is.

**Commissioner Covington:** Do you know about the study - I think it's a, I don't know if it's a joint study. But DOJ, National District Attorneys Association was going to do it, but it might just be being done in DOJ, where they're looking at perpetrator outcomes. It was a study we asked for through our coalition a long time ago; what's really happening in terms of the sentencing, consistency across the country on perpetrators, primarily when there's been murders.

**Commissioner Bevan:** Are we going to meet with them?

**Ms. Cooper:** We're trying to.

**Commissioner Petit:** There was also the very large DOJ study about a year and a half ago on violence in the home that really addressed a lot of this. Is that something that we're --?

**Commissioner Bevan:** We'll look up both, but we do want to learn more about siblings.

And then again, we're going to look also at the, I think the one we talked about -- I'm concerned, since the inception of the CAPTA programs in '74, we have always relied on state definitions, always relied on state protocols.

And if we're wrong, it ties into the federal role and it ties into counting. What do we do if we're wrong about the fact that -- we've always relied on the states to define child abuse and neglect, partly because we couched it in cultural terms and we said we were being sensitive and that it was not up to the Feds to define. You know, we did the minimum and the floor, the floor and the ceiling standard, really minimum, just like we do with child care safety, which is a big mistake.

We should discuss the feasibility of any kind of standardization. That has to be, at some point, discussed.

**Commissioner Petit:** The theme that we've discussed on that piece that I've raised, and others here have raised, is are these American children first, are they South Carolinian children first, or Cook County children first, or Vermont children first?

I don't know if there's a division of opinion on that. Maybe some people think they're Texas kids first. They're American kids first. And at some point, if some state is lagging behind a national standard, the federal government has a right, as it does in civil rights issues, to wade into a situation.

**Commissioner Bevan:** Okay, but we don't have a standard then. If we don't have CFRs and death fatality, if we don't have it, then we don't the standard to judge. So if we don't have the standard to judge, then maybe we need to have a better definition.

**Commissioner Petit:** Yeah.

**Commissioner Bevan:** Then that's a huge overhaul.

**Chairman Sanders:** At least for counting purposes we're saying there should be a federal definition. I think the broader conversation has not yet occurred around interventions.

**Commissioner Bevan:** But a federal definition would completely overhaul CAPTA.

**Commissioner Petit:** Again, how well is it working?

**Commissioner Martin:** But is that our mission?

**Commissioner Bevan:** Do we suggest it?

**Chairman Sanders:** That would be a question. Is CAPTA the mechanism for that, or are there other mechanisms again for counting. Because the purposes in CAPTA are really related to prevention of abuse and not necessarily purely counting. So I think it would be the question of what's the mechanism to get there.

**Commissioner Covington:** I don't even think it's just definitions when you're talking about states' rights versus a national standard.

You know, I was just talking about the DOD, some of the concerns they're having. Some states can have really good relationships with CPS.

Other states use state confidentiality provisions to prevent them from being able to access information. It's a mix in terms of what's going on.

**Chairman Sanders:** Commissioner Dreyfus, anything you want to add at this point?

Commissioner Dreyfus, are you still there?

**Commissioner Martin:** I just would ask a clarifying question. And, Cassie, maybe I misunderstood.

So are you suggesting that the policy subcommittee look to the feasibility or - whether or not it's needed for a federal definition more than just a floor on like abuse and neglect, an actual federal definition, or are you saying that through CAPTA, the definition of the floor that was given, that should be revamped?

**Commissioner Bevan:** I'm saying that if -- unless I don't understand the counting. But what I was hearing, counting was a standardization of, I thought it was the definitions.

But in CAPTA we don't have the standardization. So either, is that not what --

**Commissioner Covington:** We were talking about standardization to create a number that's not necessarily a number a CPS agency would use to make a determination of substantiation or not.



**Commissioner Bevan:** But what do you want the state laws to reflect? Because the state laws reflect the CAPTA language, and then they're funded by meeting the state, the federal law, federal minimum.

**Commissioner Martin:** Let me say this as simplistic as I can, based on my understanding. I thought when counting and measurements presented, they were actually talking about establishing this federal overview that then would develop a definition for abuse neglect fatalities; something that has not already been established.

The states would continue using, Illinois would continue using my abuse neglect definition for state prosecutions, for state reporting, but when we reported to this federal body that's being established by this Commission's recommendation, we would have to use - the only numbers that would be reported to this federal body would fall into the definition that this federal body used.

Is that kind of close to what you were talking about?

**Commissioner Covington:** Well, and that number could be whittled down further. You could say -- and that's currently what a number of states are currently doing, the California reconciliation audit, for example, what we do in Michigan.

**Chairman Sanders:** In the absence of a federal definition.

**Commissioner Covington:** In the absence of federal. But they've created their own. So they've created their own and at end of the year in California they can say, "We've had 400 cases of child abuse and neglect. But of those, 250 were substantiated by CPS as abuse and neglect, 30 of them were successfully adjudicated and convicted."

It's kind of a -- I hate to use the term, but it is a population-based kind of public health definition that encompasses a broader definition.

**Commissioner Martin:** With the primary purpose of making certain that the numbers, that the deaths that are counted in Illinois are counted the same way if they occurred in California. So that we would have consistency across our nation and tribal nations about what is a child abuse and neglect fatality.

That has nothing to do with my courtroom in Illinois about how I adjudicate whether a mom abused or neglected her child. Because I would still rely on my state statute to make that individual determination.

**Commissioner Petit:** But there can be a federal definition standard in terms of best interests of the child with how the states are operating on this thing, and if they feel that the state is lagging or is poorly executing or is inappropriately underfunding, or whatever it is, that just as we now have children in jails in the south in which the civil rights division and the Department of Justice can intervene directly on behalf of the child, something needs to occur --

**Chairman Sanders:** That wasn't our recommendation.

That may be where we end up as a commission but our recommendation was specific to counting.

**Commissioner Petit:** Cassie is not limiting her remarks to just about counting in child welfare. I'm just saying that as we look at that as being one of a number of standards that are adopted nationally.

And the question comes back to me, what is the role of federal government? What is the role of federal government in funding and supporting and holding accountable, enabling and responding to whatever it is? What is that federal role?

It's not well-defined at this moment. There isn't a federal strategy on dealing with this issue.

So it seems to me a part of what emerges on here is what is that federal responsibility, and that's when I refer to then you create a vehicle that supports what the federal government's role is supposed to be.

**Chairman Sanders:** So are you recommending that's the role of the policy subcommittee to define --

**Commissioner Petit:** Yes, as far as I'm concerned, it's the major policy question.

Because if you take a look at the 50 jurisdictions, you see wide variations. Some kids are more likely to live if they are abused in one state than another state. In some states they just have not geared up or they're acting in an out of sync kind of way with what we know is best practice and children are dying.

And I don't believe that you can leave it up to the governor of the state or legislature of the state to say, "We're the only ones that look at these things." There has to be a federal presence on it.

**Chairman Sanders:** Commissioner Bevan and I know Commissioner Horn and Cramer are also part of the subcommittee. The effectiveness, accountability, efficiency, and what was the fourth area? Is there a fourth?

**Commissioner Bevan:** Coordination.

**Chairman Sanders:** Coordination. And so, Commissioner Petit, you're suggesting that in addition to looking at what's currently in place from that perspective, that the policy subcommittee also bring forward recommendations about the role of the federal government?

**Commissioner Petit:** Yeah, I think -- the United States Congress, a year ago, and the President of the United States signed something that said bring to us a strategy for eliminating these child abuse deaths.

And part of that strategy, since they are -- what they control is the federal apparatus, not the state apparatus -- is what exactly should the federal role be? Should the federal role be this or should it be that? Does it take a *les affaires* attitude or does it take one of active involvement?

There's a million questions that spin off of this once you pose that question. But it hasn't been addressed in long time, and we have a body of law that goes back 30 or 40 years that increasingly raises the stakes with the federal presence.

I mean, that's what they were doing. They said it's not good enough to do with the states. That's why they passed all this federal legislation.

I think the issue now is accountability, functioning, efficiency, collaboration, all that other stuff, in terms of how well it's working.

Collectively, overall, we don't think it's working that well, witness 3000 or so kids killed a year. What could be done to strengthen that?

So I think we've been invited, we've been challenged, we been charged with saying what do we think that federal strategy should be? And again, form follows function. We think it should be this and now (inaudible) we create a vehicle for delivering it.

**Commissioner Covington:** I think all of the subcommittees are going to come up with recommendations around what that federal role would be based on our own -- I mean, I came up with one yesterday related to measurement. That, to me, is a pretty significant federal role in terms of meeting this issue. So I'm not sure it's just the role of the policy committee to do it.

**Commissioner Petit:** No, but we're talking someplace -- I'm expecting what's going to happen is at some point everything is in front of us and the full group is going to debate it, on all of this, right. I mean, it's not a Legos kind of thing that we just snap it together.

**Chairman Sanders:** Somebody has to do the work to put these piece in place. And I guess that's the question, is it the policy committee that puts that together? Is it all of the committees that have that responsibility, and how do we want to organize that?

So when everything is in front of us, is it purely the responsibility of policy to have done the research and background and made the recommendation or is that something each subcommittee should be doing?

**Commissioner Martin:** Let me put on the report where my confusion is, okay. So after I explained what I thought, in the most simplistic terms, the recommendation from the counting and measurement subcommittee, what I'm trying to find out, Cassie, is your committee then saying what you would like to do or what you feel we need to do is then define for the federal government what abuse and neglect is, abuse and neglect fatalities are?

**Commissioner Bevan:** I want to know if not defining abuse and neglect at the federal level is a barrier to determining -- to be able to count the number of child fatalities to be able to intervene.

I mean, is the way CAPTA -- any of our legislation now, is it a barrier? We're not doing it right. What's the barrier? Is it because we have too little a role or too much of a role, because we're dictating to the states or we're not dictating to the states? I don't know the answer.

**Commissioner Martin:** If I can take a moment and ask a politically incorrect question that has been plaguing me this entire time, okay. Let me begin by saying I truly think that abuse and neglect deaths is something that no child, no family, no nation should experience.

My understanding of general policy work is that you don't legislate for the exceptions, you legislate for the general things that happen.

As many deaths, whether it's three thousand four thousand or seven thousand, a death is a rare occurrence in abuse and neglect of all the cases that we have.

**Commissioner Petit:** It's a rare -- go ahead. It's a rare occurrences by U.S. standards and definitions. In other places, it would seem like it's not a rare occurrence.

**Commissioner Martin:** And I do agree, one death of a child is too many. And my question to Cassie right now on this, kind of, definition thing, I think the reason it's confusing to me is because each state has developed a mechanism for dealing with these larger issues.

If we feel that our role is to go in and change the way each state is doing it, I have some hesitancy and I have some rub there.

If what we're trying to do is develop and give the Feds better guidance on how to spend the money that's already being spent or tell them that we need more money in this direction or that direction, I'm pretty cool with that.

Because I think there's a lot of work that can be done on that issue.

I'm concerned, though, about -- I don't know if we have the resources, and maybe I'm just not thinking big enough. But I don't know if we have the resources, in terms of staff time and just people thinking on this issue, to go in and decide how the 50 states and Indian native territories need to start defining abuse and neglect. That's as simplistic as I can put it. Does that make sense?

**Chairman Sanders:** And so the question that I raised about kind of where this sits, the measurement subcommittee decided in our deliberations that there needed to be a clearer and stronger federal role in defining at least for the purpose that the subcommittee was charged.

**Commissioner Martin:** Of counting.

**Chairman Sanders:** Right.

**Commissioner Martin:** But this subcommittee is not counting. This is policy.

**Chairman Sanders:** I guess my point is a subcommittee looking at American Indian children, a subcommittee looking at public health issues, and a subcommittee looking at CPS may or may not come to the same conclusion. So we might say that there really does need to be a single definition for purposes of a child protection intervention. And that would be a recommendation that would come from the subcommittee and we would have to discuss it as a full committee.

I'm not sure we're there yet. We're saying, our subcommittee said there needs to be a stronger role for this purpose. But we won't know until we have all of the conversation from the subcommittees, or if we charge policy with it, that we have that conversation as a full conversation.

Go ahead, Commissioner Dreyfus.

**Commissioner Dreyfus:** Thank you so much. I think this is a great conversation, and I really appreciate Michael putting it on the table, and good for you, Michael.

But I think this is a discussion in and of itself - the role of the federal government in state child welfare agencies. Now, I'm being very specific about the child welfare agency. You know, the definition of safety, the definition of what is abuse and neglect.

We are -- this is running into an absolute buzz saw. I'm not afraid to run into it, but this is huge. I think, as a commission, it is not a conversation we should have policy issue by policy issue.

I think we need to have that conversation, because right now we are in a federally - no different than a county administered state, right?

We're in a federally administered state, a federally supervised administered child welfare system in this nation right now today. And boy, to flip that, especially with Congress right now, is no small task. So I just want to put on the table, Chairman Sanders that I don't think we can take this on issue-by-issue.

I think we first have to have a policy discussion what is the role of federal government so each of our subcommittees, as we're going through this, have that as a backdrop for how we're positioning our recommendations.

**Commissioner Petit:** Susan, I wish you were here. I'd embrace you and tell you how much I agree with you on what you just said. I think that is really -- the critical question on this is whether these are American kids first or not, and it's driven by the research.

It's not driven by ideological concerns.

If you take a look at the disparities between the states, and especially when you look at minorities and in terms of the investments in minorities-- and we can get specific in terms of state-by-state, look at it, but I agree with you, Susan, that this isn't policy by- policy.

There's an overarching issue here, and the overarching issue that I would present is that when all else fails, the federal government is the court of last resort in intervening on behalf of

individuals where -- I've been in jails with ten-year-old kids with unlit cells, stuffed-up toilets, a hundred degrees, and every single decision that was made, including none of those kids having access to lawyers, every single decision that was made was made locally. Those are all local decisions. And I can't bring myself to say that local trumps state, that state trumps federal. It's a dance among all three.

And the question for us is -- it hasn't been debated in a long time -- is what is that federal role. Why not look at that -- let's have that debate.

**Chairman Sanders:** It's because we have to have a debate based on information that we've heard. We need to have some organized way of presenting that information and hearing it. That's what I'm suggesting.

Either we do that through the policy committee or we do it through some other committee. But we can't just start with an ideological discussion because that's what it would end up being. What do we know about this --?

**Commissioner Petit:** Our committee right now, so this is eventually all of us, our subcommittee is looking at certain indicators and how they look from one state to the other, knowing that they're not all precisely the same definition, but whether it's removal of children from families, whether it's referrals, whether it's confirmation rates.

Whatever it happens to be, we're looking at that. And at some point what we'll have is a display that shows what the difference is between the highest state and the lowest state in terms of particular outcomes.

And that is where it begs the question of who's involved with trying to level this stuff so that you don't have terrible and best.

**Chairman Sanders:** So at some point I'm just suggesting some subcommittee should be looking at it, or we can create something as an entire commission. But I don't want to just put this in the middle of the table and say, what's the role of the federal government, and have a debate

I think it's more -- I think we need more substance behind it than that.

Commission Rodriguez?

**Commissioner Rodriguez:** Isn't each subcommittee also, though, coming up with recommendations that more clearly define what we believe the role of the federal government would be?

For example, on our subcommittee we're thinking about what's the role of the federal government in terms of identifying best practices for interventions acting as a clearing house, disseminating them, funding them. What's the role of the federal government in terms of developing their research base?

Doesn't all of that need to feed into the discussions so that we're talking about specific things?

**Chairman Sanders:** That was my recommendation. And I heard yesterday the relationship between tribes and the federal government complicates it and so it would be helpful to have that information on the table as we're having the conversation.

That's really all I'm suggesting, is how -- procedurally, how do we get to that conversation?

**Commissioner Covington:** I agree with Jennifer. I think each subcommittee is going to identify what they see the role of the federal government is in implementing the recommendations that they're putting forward.

To me, the charge we have through the law basically gives us that oversight to determine what we think the federal government should be doing differently. I don't think it's a question that we even have to debate.

**Commissioner Bevan:** I think it's a question we have to debate, because we're supposed to be coming up with a national strategy. And if we can't even come up with -- if we're going to continue with this balkanization, which we're doing, which mimics what the federal government has always done --

**Commissioner Covington:** Balkanization where?

**Commissioner Bevan:** Right here. Every single subcommittee wants to come up with their own different thing and --

**Commissioner Covington:** They're different. I think at the end we bring them together.

**Commissioner Bevan:** They're not different because your standardization of definitions and autopsies and protocols affects my programs in terms of interventions and how does the state meet their responsibility in terms of the state laws having reflected their definitions.

**Commissioner Covington:** My charge isn't supposed to be to look at state laws.

**Commissioner Bevan:** You can't say standardization only affects counting. It doesn't work that way. It just doesn't work that way.

**Chairman Sanders:** Again, just to get this on the table, ultimately we put together a single report that will clearly include -- because I think there's no way around it -- what the federal role is in this area.

And so we either have subcommittees that bring it forward, or it is a committee, like the policy committee, that just says let's define the federal role.

But somehow, how do we have that conversation as a full commission?

**Commissioner Petit:** Well, prior to the full commission, you raised the question about what protocol was in subcommittees.

I'd be happy, with Jennifer, with Bud Cramer, with Teri, and especially with Cassie, to have that conversation. I mean, if you want it reduced to something specific, I suspect we could

reduce it to something specific. We might not all agree with it, but then have a debate based upon that.

Maybe it's a preparation of a two- or three- or four-pager that frames it. I'd work on that with anybody if somebody wants to do that.

**Commissioner Covington:** I don't know how we'd do that, though, until we really know what's going to percolate up from all of our work. I mean, to sit there and say what's the federal role, I don't know if we are, and that's what we're all hassling with our own work.

I don't think its balkanization. I think we very smartly created different areas that we're focused on. When we're all done with that, maybe that's when we have -- but to sit there and try to have that conversation now --

**Commissioner Petit:** Maybe. At some point, we have to address that question or else we're not fulfilling -- the charge is what should the federal strategy be on this.

**Commissioner Martin:** I have a suggestion. I think we're talking across each other on some level, I think. Maybe what we should do is do what we had started; allow each subcommittee to tell us where they are and what direction they're taking, and as a commission, give them some guidance about, you know, if you think that Marilyn and Pat needs to take on role A or route A and we haven't talked about that, then the subcommittee -- the Commission can give us that guidance.

And then once we get all the information and we're prepared to present our draft kind of where we think the conversation should go about recommendations, then we can talk about whether or not we think that's appropriate within the framework of our mission, our charge.

Because I guess what got me when Cassie was talking, was -- the way I understood what Cassie was talking about required a lot more time than a year.

**Commissioner Bevan:** I'm not talking about changing state law.

**Commissioner Martin:** I apologize?

**Commissioner Bevan:** I'm not talking about changing state law.

**Commissioner Martin:** No, but you're talking about changing federal law that affects every case.

**Commissioner Bevan:** I'm talking about the implications of what I keep hearing. You do have to make a decision. Either we're going to overhaul the way we've done things or we're not.

And if we're not going to overhaul it, then at least these subcommittees better be in sync because otherwise we're just mimicking what we already have. I mean, you know that. You also know historically this has been a bipartisan issue.

There have been murmurs here about well, given this government or given that. Yes, it a Republican majority, but it's a divided government, and it's divided Congress in terms -- this



issue has been bipartisan from the beginning. Not just this, the establishment of this commission, but back to 1980, back to 1974, there's never been any legislation that has -- in this area that has not been bipartisan.

So we also have to walk that or at least understand that that's historically where this has been.

**Chairman Sanders:** I want to say something, because it might hopefully get us passed the talking across purposes.

So partly, as a commission, we just acknowledged from the adoption of the recommendations around counting a different federal role.

I think that we have -- we may be at a point of saying, okay, what are the implications of that, which we haven't done, which might help us, then, in forming some of the other commissions.

So maybe we want to come back with what are the implications just minimally of what we already agreed to in saying, at least conceptually, we think there should be a single definition for purposes of counting; come back and have that conversation so that we fully understand then what that might mean for our future decisions and maybe we want to revisit that decision.

But if we're saying that this has significant implications, let's understand that and then say does this direct where all of the other subcommittees go, does this -- is it still a ground up, kind of each subcommittee does what it does.

**Commissioner Petit:** To the extent you think a congressional vote means something, and I do, a 330 to 77 vote in a Republican house and a hundred to nothing vote in the U.S. Senate seems to me to be a strong, a verification of what this is about as anything.

They are clearly unhappy with the current situation. They have not adopted this legislation, and specifically, the charge is what should the federal strategy be in reducing child fatalities, eliminating child fatalities.

So I agree with Cassie, we don't have a choice. It has to be a bipartisan effort and it will be a bipartisan effort on this piece. But I do think we need to start having a discussion about what does it mean when you start redefining the federal role.

**Chairman Sanders:** So do you --

**Commissioner Bevan:** I mean, which the standardization, the standardization question, standardization and having this new dataset, this repository or whatever, that starts the discussion. That's why it was -- because the implications go pretty far down.

**Chairman Sanders:** So it seems that it -- and just, again, to make sure we move forward with this, because I don't think anybody's disagreeing with the implications. I think the question is how do we get to that conversation.

Does it make sense in the next meeting for your subcommittee to come back and just say this means an overhaul of CAPTA, as an example, and then for us to understand the implications and begin the conversation about it?

So what does it mean for each of the subcommittees, and is this something that absolutely has to be defined by us and come forward that way?

**Commissioner Petit:** How many subcommittees do we have?

**Chairman Sanders:** Six. Well, one is policy and one is this one.

**Commissioner Petit:** Well, stepping outside the role on CPS that I'm doing right now, which I think is very much related to this question we're raising, but I would be happy, among any others, to work with Cassie in maybe coming up with a two- or three- or four-pager that we agree on that would frame this. I mean, that would be one way of doing it.

I am -- with the committee that we're on, that Jennifer and I and Bud are on, we have asked that information be collected that stays specific to show this unevenness which begs the question of why there needs to be a federal role on this thing.

**Commissioner Bevan:** You're not on another committee, right; just on one committee?

**Commissioner Martin:** I'm on two. I'm on the Native Americans and Minority committee. I'm fine with it. I mean, I think that, you know, I was just expressing a concern. And so I just didn't envision that.

**Commissioner Bevan:** I know.

**Commissioner Martin:** So I keep -- I'm not sure how - if I understand correctly what Cassie was talking about, I'm not even sure how we can do that.

But I think one of the recommendations I would have is that we allow the subcommittee, the policy subcommittee, to come up with their recommendations about what needs to be overhauled.

So for instance, a federal definition of abuse and neglect fatality and how that would work, how that feeds down to my court, my district, my --

**Commissioner Bevan:** I'm not saying I would want a federal definition at all.

**Commissioner Martin:** No, but I'm just trying to use that as an example. And that after we get that on the table, in combination with all the other conversations about the other subcommittees, then we can decide as a group if that's what we're going to take on.

**Commissioner Covington:** That's the work that the measurement committee is doing.

**Commissioner Bevan:** No, it's not.

**Commissioner Martin:** It's beyond the measurement committee. I think it's well beyond the measurement committee.

**Commissioner Bevan:** Well beyond, that's the problem.

**Commissioner Petit:** That's the reality, though. The problem is that's why we're in the situation we're in. Every single state, at this point, in my experience and knowledge, is vulnerable to successful class action litigation for being in violation of federal law, every single one of them. And I think over the last ten or fifteen or twenty years, there may have been one that escaped the court finding that they in fact were out of compliance with federal law.

**Commissioner Martin:** Let me try it this way. If I'm the one in the minority here, I agree with the Commission, then, to proceed. And then I will voice my concern just like anyone else. But all --

**Commissioner Bevan:** You're not. You're not disagreeing. You're recognizing the enormity.

**Commissioner Martin:** I guess that's what it is. I think it hit me like a brick wall when Cassie was talking. I guess what I'm saying is if we go down that road, we are going to be spending our resources on this vast thing that I'm not sure we can put our arms around.

And I wonder whether or not we need to branch that off and decide where the priorities are so that we can actually do what we do well, even if it's a small piece of what needs to be done overall. Does that make sense?

**Commissioner Bevan:** Yes.

**Commissioner Petit:** It does, for me it does, except the one big thing. That's exactly what we are about.

**Chairman Sanders:** We're not going to sort out the issue today. The idea is a process to get this in front of all of us so we can talk.

**Commissioner Bevan:** I'll work with you and I'll work with you and we'll all start.

**Commissioner Martin:** Why don't we finish the process that we started? Why don't we finish the process that we started? How many subcommittees have we not heard from?

**Commissioner Covington:** We've heard from all of them. This is the last one.

**Chairman Sanders:** But we haven't heard, actually, recommendations, we've just heard --

**Commissioner Martin:** We have -- so then is it possible that we take a meeting and actually talk about the scope, the grand scope of this federal reform?

I mean, I don't know how else to say it simply, right, and see whether or not we can all come to some understanding -- Mike, I agree with you. And the system is never going to work well until we revamp the whole thing.

The issue is we don't have the resources, time, money, people -- let me finish, okay, if you don't mind -- to do the whole scope. So what I would suggest is we prioritize and I kind of thought we were doing that by doing the subcommittees.

But I don't think it hit me until Cassie started talking about how the subcommittees are kind of big, if we don't prioritize a little further about where we're going to put our focus on the beginning of this revamp. Does that make sense? I'm not saying if you agree with me; I'm just asking if you understand what I'm saying.

**Commissioner Petit:** It does make sense. I would say yes and, and the "and" is there are many other resources that we can tap into, that we can harness. We've talked about what some of those look like, that is part of our role and responsibility.

We've said we're going to communicate with HHS or the Department of Justice or researchers or any other number of other people consulting with the states and so forth.

Yeah, it is a big undertaking and this is the time. They're not, as we said, they're not going to do this again. So if there is going to be a big overhaul, this is the time that there's going to be a big overhaul.

I know David is frustrated in trying to get us, the sheep rounded up or the cats rounded up -- cats, not sheep -- the cats rounded up to undertake the task.

What I've just heard is Cassie saying, she's ready to get started in looking at that issue with me and whoever else wants to look at it. But I do think that's a principal function of this commission is what is the federal role.

**Commissioner Covington:** What I don't understand is we decided to create the subcommittees to do this work to percolate back up what we think those bigger overhauls should be. And until we see what that work is out of these subcommittees,

I don't see how we can sit there and put a whole lot of time into deciding what the federal overhaul would be.

I think we very smartly created subcommittees that are working in different pockets. We're going to bring that all together, we're going to look at it, and to me, that's the time when we say how does this fit into a structure for federal overhaul.

**Commissioner Petit:** Is that the February (inaudible) discussion?

**Commissioner Covington:** No, I think we're not even close to being there yet. The subcommittees are all really working. They have a long way to go before we're ready to do that.

**Commissioner Rodriguez:** It seems to me like what might be helpful, is -- I think the reason I'm feeling lost is that I feel like we already did part of this. We already established that we are going to set a uniform definition for the purposes of counting and that --

**Commissioner Bevan:** No, we didn't. We didn't decide that. It wasn't decided nor was there a definition itself decided.

**Commissioner Rodriguez:** There was a recommendation made.

**Commissioner Bevan:** It was some idea about -- yeah.

**Commissioner Covington:** You weren't here, Cassie, because you left. But we had quite a long conversation about how --

**Chairman Sanders:** It wasn't an actual formal decision. We're moving in that direction.

**Commissioner Rodriguez:** We're moving in that direction. I guess I'm thinking that maybe what the subcommittees need to think about in their work is how that impacts the work, how whatever that is might impact the work of the subcommittee and what we need to consider.

But I mean, I personally am just not interested in having an abstract like law school kind of discussion about the role of the state and the federal government.

I'd rather have a discussion about specifically what we're thinking about and our subcommittees, how a uniform definition for the purposes of counting might impact any of the things that we're thinking about so that we can take that into consideration as we're making recommendations.

But I know I don't feel ready because I feel like we need more information.

**Chairman Sanders:** I think that's what I had suggested; that we have at least concrete direction that we have agreed on. We could come back with, "These are the implications," because we know that's at least specifically what we --

**Commissioner Petit:** And to Jennifer's point about an abstract legal brief on this thing, I couldn't agree with you more on this thing.

Let me say what I have in my head, what you do not have in your heads, is this descending order pie charts that shows the differences from the top state to the bottom state. And we'll have that. We'll have something ready.

And, Jennifer, when you see that, then it dictates, I think now what we're dealing with is this is the reality of what their outcomes are, this is how they do their business. At that point you can judge for yourself, well, some kids are better off living in one state than another or they all should be treated equally.

**Chairman Sanders:** So I think -- do you have enough direction, Cassie, for - and we'll have this conversation at our Oregon meeting, basically on the implications of the recommendation the measurement committee made and what that might mean for the full commission.

**Commissioner Bevan:** Well, we're not going to talk about the implications of measurement; the measurement committee is going to --

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**Chairman Sanders:** We are adjourned. Thank you very much.

**(The hearing was concluded.)**